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No. 49] NEW DELHI, NOVEMBER 30—DECEMBER 6, 2008, SATURDAY/AGRAHAYANA 9—AGRAHAYANA 15, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय मंत्रालय

MINISTRY OF LAW AND JUSTICE

(विधि कार्य विभाग)

(Department of Legal Affairs)

नई दिल्ली, 21 नवम्बर, 2008

New Delhi, the 21st November, 2008

का.आ. 3203.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री एम. एस. भारद्वाज, अधिवक्ता को, मुम्बई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दंडिक मामलों का, जिनके अंतर्गत दंडिक रिट याचिकाएं, दंडिक अपीलें, दंडिक पुनरीक्षण, दंडिक निर्देश और आपराधिक आवेदन भी हैं, संचालन करने के प्रयोजन के लिए इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से एक वर्ष की अवधि के लिए या अगले आदेश होने तक, इनमें से जो भी पूर्वतर हो, इस शर्त के अधीन रहते हुए अपर लोक अभियोजक नियुक्त करती है कि श्री एम. एस. भारद्वाज, अधिवक्ता अपनी नियुक्ति की अवधि के दौरान भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय के विरुद्ध ऊपर निर्दिष्ट किसी आपराधिक मामले में मुम्बई उच्च न्यायालय में उपसंजात नहीं होंगे।

S.O. 3203.—In exercise of the powers conferred by sub-section (1) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri M. S. Bhardwaj Advocate as Additional Public Prosecutor for the purpose of conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai, with effect from the date of publication of this notification in the Official Gazette, for a period of one year or until further orders, whichever is earlier, subject to the condition that Shri M. S. Bhardwaj, Advocate, shall not appear against the Union of India or any Department or Office of the Central Government in any criminal case referred to above, in the High Court of Judicature at Mumbai during the period of his appointment.

[सं. एफ 23(2)/2008-न्यायिक]

[F. No. 23(2)/2008-Judl.]

एम. ए. खान यूसुफी, संयुक्त सचिव और विधि सलाहकार

M. A. KHAN YUSUFI, Jt. Secy. & Legal Adviser

कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 26 नवम्बर, 2008

का.आ. 3204.—केंद्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना द्वारा विशेष न्यायाधीश, मुम्बई के न्यायालय में और अपील/पुनर्विचारण न्यायालयों या महाराष्ट्र राज्य में बिधि द्वारा स्थापित न्यायालयों, जिन पर उपरोक्त धारा के प्रबंधन लागू होते हैं, में संस्थित मामला अथवा इनसे उद्भूत निम्न मामलों में श्री ए. एस. कुलये अधिवक्ता को विशेष लोक अभियोजक के रूप में नियुक्त करती है :—

- (1) आरसी 2/ई/96-बीएसएफसी/मुम्बई
- (2) आरसी 3/ई/96-एसआईगृ (10)/नई दिल्ली
- (3) आरसी 6/ई/96-बीएसएफसी/मुम्बई
- (4) आरसी 1/ई/97-बीएसएफसी/मुम्बई
- (5) आरसी 10/ई/97-बीएसएफसी/मुम्बई

[सं. 225/38/2008-एवीडो-II]

चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 26th November, 2008

S.O. 3204.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri A. S. Kulaye, Advocate as Special Public Prosecutor for conducting the prosecution of the following cases instituted by the Delhi Special Police Establishment in the Court of Special Judge, Mumbai and appellate/revisonal courts or any other matters arising out of the case in the courts established by law in the State of Maharashtra to which provisions of the aforesaid section apply :

- (i) RC 2/E/96-BSFC/MUM,
- (ii) RC 3/E/96-SIU(X)/ND,
- (iii) RC 6/E/96-BSFC/MUM,
- (iv) RC 1/E/97-BSFC/MUM,
- (v) RC 10/E/97-BSFC/MUM

[No. 225/38/2008-AVD-II]

CHANDRA PRAKASH, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 27 नवम्बर, 2008

का.आ. 3205.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्द्वारा, निम्नलिखित चार व्यक्तियों को, अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के बंगलुरु स्थानीय बोर्ड के रूप में नामित करती है :—

क्रम सं.	नाम	पता
1.	श्रीमती एन. एस. रतना प्रभा	सं. 33/डी, बी जी रेलवे क्वार्टर, बंगलुरु-560023
2.	श्री एल. चंद्रशेखर	सं. 21/3, (पूर्व सं. 36), बानासवाडी, मेन रोड, मारुति सेवा नगर, बंगलुरु-560033
3.	श्री आर. अशोक कुमार	931, 5वां क्राम 9वां मंज, ब्लॉक-1, कल्याण नगर, बंगलुरु-560043
4.	श्री श्रीनिवास निवारो	फ्लैट सं. 105, प्रथम तल, पैलेस हाइट अपार्टमेंट, पेनंग क्रॉस रोड, बंगलुरु-560029

[का. सं. 9/3/2008-बीओ-II]

बी. बी. सिंह, उप सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 27th November, 2008

S.O. 3205.—In exercise of the powers conferred by of clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates the following four persons, to be a member of the Bangalore Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier :

S. No.	Name	Address
1	2	3
1.	Smt. N.S. Rathna Prabha	N. 33 D, B.G. Railway Quarters, Bangalore-560023
2.	Shri L. Chandrashekar	No. 21/3, (OLD No. 36), Banaswadi Main Road, Maruthi Seva Nagar, Bangalore-560033

1	2	3
3.	Shri R. Ashok Kumar	931, 5th Cross, 9th Main, 1 Block, Kalyan Nagar, Bangalore-560043
4.	Shri Srinivas Tiwari	Flat No.103, 1st Floor, Palace Heights Apts., Palace Cross Road, Bangalore-560020

[F.No. 9/3/2008-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

क्रा. आ. 3206.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, श्री मुरलीधर जेना, निवासी गांव कटसाही, डाकघर श्री गंगा, वाया अर्नापल, जिला भद्रक को, अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के भुवनेश्वर स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा. सं. 9/4/2008-बीओ-1]

जी.बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3206.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Muralidhar Jena, resident of Vill. Katsahi, P.O. Sriganga, Via Arnopal, Dist. Bhadrak, to be a member of the Bhubaneswar Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F.No. 9/4/2008-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

क्रा. आ. 3207.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, श्री गुरजीत सिंह लेहल, मकान सं. 1069, सेक्टर 27-बी, चंडीगढ़ निवासी को, अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के चण्डीगढ़ स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा. सं. 9/5/2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3207.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section

21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Gurjit Singh Lehal, resident of House No. 1069, Sector 27-B, Chandigarh, to be a member of the Chandigarh Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F.No. 9/5/2008-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

क्रा. आ. 3208.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, निम्नलिखित दो व्यक्तियों को, अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के हैदराबाद स्थानीय बोर्ड के सदस्य के रूप में नामित करती है :—

क्रम सं.	नाम	पता
1.	श्री चिन्ता वेंकट कृष्णा	प्लॉट सं. 73, मिथिला नगर कॉलोनी, रोड नं.-12, बंजारा हिल्स, हैदराबाद-500034।
2.	श्री कोटेश्वर राव जलदु	109, एम वी वी एस्टेट, डी सं. 6-1-1, चायनावाल्तूर, विशाखापट्टनम, आंध्रप्रदेश-530003।

[फा. सं. 9/6/2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3208.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates the following two persons, to be a member of the Hyderabad Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier :

S. No.	Name	Address
1.	Shri Chinta Venkat Krishna	Plot No. 73, Mithila Nagar colony, Road No.-12, Banjara Hills, Hyderabad-500 034.
2.	Shri Koteswara Rao Jaldin	109, M.V.V. Estates, D, No. 6-1-1, Chinawaltur, Visakhapatnam, Andhra Pradesh-530 003.

[F.No. 9/6/2008-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

का. आ. 3209.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केंद्रीय सरकार, भारतीय स्टेट बैंक के परामर्श से, एतद्द्वारा, श्री संकर कुमार शर्मा, निवासी 97-3, नस्कर पारा रोड, घुसुरी, होवराह-711 103 को, अधिनियम की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के कोलकाता स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा. सं. 9-7-2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3209.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Sankar Kumar Sanyal, resident of 97-3, Naskar Para Road, Ghusuri, Howrah-711 103, to be a member of the Kolkata Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F. No. 9-7-2008-BO-1]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

का. आ. 3210.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केंद्रीय सरकार, भारतीय स्टेट बैंक के परामर्श से, एतद्द्वारा, श्री मदन मोहन शुकला, निवासी 22-8, बिरहमा रोड, रोटिगोदम, कानपुर, उत्तर प्रदेश को, अधिनियम की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के लखनऊ स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा. सं. 9-8-2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3210.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Madan Mohan Shukla, resident of 22-8, Birahma Road, Rotigodam, Kanpur, Uttar Pradesh, to be a member of the Lucknow Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F. No. 9-8-2008-BO-1]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

का. आ. 3211.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केंद्रीय सरकार, भारतीय स्टेट बैंक के परामर्श से, एतद्द्वारा, श्री सैयद जावेद मुनीर हाशमी, निवासी प्लॉट सं. 160-बी, 29th मार्ग, टीपीएस III, बान्द्रा (पश्चिम), मुम्बई को, अधिनियम की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के मुम्बई स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा. सं. 9-11-2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3211.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri Syed Javed Munir Hashmi, resident of Plot No. 160-B, 29th Road, T.P.S. III, Bandra (West), Mumbai, to be a member of the Mumbai Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F. No. 9-11-2008-BO-1]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 27 नवम्बर, 2008

का. आ. 3212.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 क के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केंद्रीय सरकार, भारतीय स्टेट बैंक के परामर्श से, एतद्द्वारा, श्री सी. ए. नरयण कल्लिवयालिल, निवासी बाबु आ. कल्लिवयालिल एवं को. अकाउंटेंट्स महालेखाकार, द्वितीय मंज, मंचु कॉम्प्लेक्स, प्लॉट सं. 68-2011, कोचि-682011 को, अधिनियम की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, भारतीय स्टेट बैंक के तिरुवनन्तपुरम स्थानीय बोर्ड के सदस्य के रूप में नामित करती है।

[फा. सं. 9-12-2008-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 27th November, 2008

S.O. 3212.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Shri C.A. Babu Abraham Kalliyavallil, resident of Babu A. Kalliyavallil & Co., Chartered Accountants, II Floor, Manchu Complex, P.T. Usha Road, Kochi-682011, to be a member of the Thiruvananthapuram Local Board of the State Bank of India for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F. No. 9-12-2008-BO-1]

G. B. SINGH, Dy. Secy.

वाणिज्य और उद्योग मंत्रालय

(वाणिज्य विभाग)

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3213.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) और उप-नियम (3) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स नेशनल एल्यूमिनियम कं. लि. को जिसका रजिस्ट्रीकृत कार्यालय नाल्को भवन, पी/1 नयापल्ली, भुवनेश्वर-751013 में स्थित है, कैल्सीड एल्यूमिना (एल्यूमिनियम आक्साइड शीर्षक के अधीन) के उत्पादों का निरीक्षण के लिए जो, मैसर्स नेशनल एल्यूमिनियम कं. लि. (भारत सरकार का एक उपक्रम) दामनजोड़ी-763 008 उड़ीसा में विनिर्मित को, उड़ीसा से निर्यात के लिए भारत सरकार के तत्कालीन वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 1271 तारीख 25 अप्रैल, 1966 की अनुसूची में विनिर्दिष्ट 24 फरवरी, 2008 से तीन वर्ष की और अवधि के लिए उक्त कैल्सीड एल्यूमिना (एल्यूमिनियम आक्साइड शीर्षक के अधीन) को निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रहते हुए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

(1) मैसर्स नेशनल एल्यूमिनियम कं. लि. कैल्सीड एल्यूमिना स्वयं के उत्पादों का निरीक्षण मैसर्स नेशनल एल्यूमिनियम कं. लि. दामनजोड़ी-763 008 उड़ीसा में विनिर्मित है, का निर्यात से पूर्व निरीक्षण निर्यात निरीक्षण अधिकरण-कोलकाता के तकनीकी अधिकारी के निबंधनाधीन होगा जिसका स्तर संयुक्त निदेशक से कम न हो और इस प्रयोजन के लिए उक्त कंपनी निर्यात निरीक्षण अधिकरण-कोलकाता को 0.1 प्रतिशत रकम की दर से (एफओबी) दामनजोड़ी उड़ीसा की यूनिटों से निर्माण की गई वस्तुओं के मूल्य का पुगतान करेगी जो एक वर्ष में न्यूनतम दो हजार पांच सौ रुपए और अधिकतम एक लाख रुपए के अधीन रहते हुए करेगी।

(2) मैसर्स नेशनल एल्यूमिनियम कं. लि. इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निर्देशों से आबद्ध होंगे।

[फाईल सं. 5/3/2008-ईआई एंड ईपी]

किरण पुरी, निदेशक

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Commerce)

New Delhi, the 18th November, 2008

S.O. 3213.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rules (2) and (3) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby

recognises M/s. National Aluminium Company Limited, having their registered office at NALCO Bhawan, P/1 Nayapalli, Bhubaneswar-751013, as an agency, for a further period of three years, with effect from 24th February, 2008 for inspection own products of Calcined Alumina (under the heading of Aluminium Oxide), specified in the Schedule to the notification of the Government of India in the Ministry of Commerce vide number S.O. 1271, dated the 25th April, 1966, manufactured at M/s. National Aluminium Company Limited (A Government of India Enterprise), Damanjodi-763 008, Orissa, prior to export of the said Calcined Alumina (under the heading of Aluminium Oxide), subject to the following conditions, namely :—

(i) that M/s. National Aluminium Company Limited shall carry out the inspection own products of Calcined Alumina, manufactured at M/s. National Aluminium Company Limited, Damanjodi-763 008, Orissa prior to export, under the technical control of an officer not below the rank of a Joint Director of the Export Inspection Agency, Kolkata and for this purpose, the said company shall pay to the Export Inspection Agency, Kolkata, an amount at the rate of 0.1 per cent of the f.o.b. value the items exported from their units at Damanjodi, Orissa subject to a minimum of rupees two thousand five hundred and maximum of rupees one lakh in a year, and

(ii) that M/s. National Aluminium Company Limited in the performance of its function under this notification, shall be bound by such directions as the Director (Inspection and Quality Control), Export Inspection Council may give to it in writing from time to time.

[F. No. 5/3/2008- EI & EP]

KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3214.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, एसबीएस हाऊस, प्लॉट नं. आर-12 और एल-16, इंडस्ट्रियल इस्टेट, डाम रोड, होसपेट-583203 को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 में उपाबद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क, (समूह-1) अर्थात् लौह अयस्क और मैंगनीज अयस्क का निम्नलिखित शर्तों के अधीन रहते हुए, उक्त खनिजों और अयस्कों का होसपेट में, निर्यात

से पूर्व निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :-

नई दिल्ली, 18 नवम्बर, 2008

- (i) मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, होस्पेट खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण पत्र देने के लिए उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) मैसर्स एस.जी.एस. इंडिया प्राइवेट लिमिटेड, होस्पेट इस अभिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निर्देशों से आबद्ध होंगे।

[फा. सं. 5/10/2008-ईआई एंड ईपी]

किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3214.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rules (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. S.G.S. India Private Limited, SGS House, Plot Nos. R-12 & L-16, Industrial Estate, Dam Road, Hospet-583203 as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely Iron Ore and Manganese Ore, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce number S.O. 3975 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Hospet, subject to the following conditions, namely : —

- (i) that M/s. S.G.S. India Private Limited, Hospet shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and
- (ii) that M/s. S.G.S. India Private Limited, Hospet in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/10/2008-EI & EP]

KIRAN PURI, Director

का. आ. 3215.—केंद्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. प्राइवेट लि., प्लॉट नं. 784, पी.ओ. खंजनचक, हल्दिया, जिला मिदनापुर, पश्चिमी बंगाल-721602 को इस अभिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अभिसूचनाओं सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 और का. आ. 3978 तारीख 20 दिसम्बर, 1965 के साथ उपाबद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क (समूह-I) अर्थात् लौह अयस्क, मैंगनीज अयस्क (मैंगनीज टॉयआक्साइड को छोड़कर), और (समूह-II) अर्थात् क्रोम अयस्क जिसके अंतर्गत क्रोम तत्व भी हैं का निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रहते हुए हल्दिया में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :-

- (i) मैसर्स मित्रा एस.के. प्राइवेट लि., हल्दिया खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगा; और
- (ii) मैसर्स मित्रा एस.के. प्राइवेट लि., हल्दिया इस अभिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निर्देशों से आबद्ध होंगे।

[फाईल सं. 5/11/2008-ईआई एंड ईपी]

किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3215.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S.K. Private Ltd., Plot No. 784, P.O. Khanjanchak, Haldia, District Midnapur, West Bengal-721602, as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely Iron Ore and Manganese Ore (excluding Manganese Dioxide), and (Group-II), namely, Chrome Ore including Chrome Concentrates, as specified in the Schedules annexed to

the notifications of the Government of India in the Ministry of Commerce numbers S.O. 3975 dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Haldia, subject to the following conditions, namely :—

- (i) that M/s. Mitra S. K. Private Ltd., Haldia shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965; and
- (ii) that M/s. Mitra S. K. Private Ltd., Haldia in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/11/2008- EI & EP]
KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3216.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. प्राइवेट लि., सिसिरिका बिल्डिंग, मधुसूदन नगर, तुलसीपुर, कटक-753008, उड़ीसा को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचनाओं सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 और का.आ. 3978 तारीख 20 दिसम्बर, 1965 के साथ उपाबद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क (समूह-I) अर्थात् लौह अयस्क, मैंगनीज अयस्क, मैंगनीज डायऑक्साइड फैरो मैंगनीज को छोड़कर, एवं फैरो मैंगनीज स्लेग और (समूह-II) सहित अर्थात् मैंगनीज डायऑक्साइड, क्रोम अयस्क जिसके अंतर्गत क्रोम तत्व भी हैं, का निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रहते हुए कटक में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :-

- (i) मैसर्स मित्रा एस. के. प्राइवेट लि., कटक खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी; और

- (ii) मैसर्स मित्रा एस.के. प्राइवेट लिमिटेड, कटक इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद द्वारा समय-समय पर लिखित में दिए गए निर्देशों से आबद्ध होंगे।

[फाईल सं. 5/14/2008-ईआई एंड ईपी]

किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3216.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S.K. Private Ltd., Sisirika Building, Madhusudan Nagar, Tulsipur, Cuttack-753008, Orissa, as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely Iron Ore, Manganese Ore excluding Manganese Dioxide, Ferromanganese including Ferromanganese slag and (Group-II), namely, Manganese Dioxide, Chrome Ore including Chrome Concentrates, as specified in the Schedule annexed to the notifications of the Government of India in the Ministry of Commerce numbers S.O. 3975 dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Cuttack, subject to the following conditions, namely :—

- (i) that M/s. Mitra S. K. Private Limited, Cuttack shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965; and
- (ii) that M/s. Mitra S. K. Private Ltd., Cuttack in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/14/2008- EI & EP]

KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3217.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963

(1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस.के. खनिज निरीक्षण प्राइवेट लिमिटेड, बारबिल, जिला क्यैंग्ज़ार उड़ीसा-758035 को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के वाणिज्य मंत्रालय, की अधिसूचनाओं सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 और का.आ. 3978 तारीख 20 दिसम्बर, 1965 के साथ उपावद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क, मैंगनीज अयस्क, और (समूह-II) अर्थात् मैंगनीज डायऑक्साइड का निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रहते हुए बारबिल में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :-

- (i) मैसर्स मित्रा एस. के. खनिज निरीक्षण प्राइवेट लिमिटेड, बारबिल, खनिज और अयस्क समूह-I का निर्यात (निरीक्षण) नियम, 1965 तथा खनिज और अयस्क समूह-II का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई निरीक्षण की पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगा; और
- (ii) मैसर्स मित्रा एस.के. खनिज निरीक्षण प्राइवेट लिमिटेड, बारबिल, इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निर्देशों से जो, निदेशक (निरीक्षण और क्वालिटी नियंत्रण), निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए जाएं, आबद्ध होंगी।

[फा. सं. 5/15/2008-ईआई एंड ईपी]
किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3217.— In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S. K. Minerals Inspection Private Limited, Barbil, District Keonjhar, Orissa-758035, as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore, Manganese Ore and (Group-II), namely, Manganese Dioxide, as specified in the Schedule annexed to the notifications of the Government of India in the erstwhile Ministry of Commerce numbers S.O. 3975 dated the 20th December, 1965 and S.O. 3978 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Barbil, subject to the following conditions, namely:—

- (i) that M/s. Mitra S. K. Mineral Inspection Private Limited, Barbil shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965 and the Export of Minerals and Ores, Group-II (Inspection) Rules, 1965; and
- (ii) that M/s. Mitra S. K. Mineral Inspection Private Limited, Barbil in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time

[F. No. 5/15/2008-EI & EP]
KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3218.— केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उपनियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स एसन एंड कंपनी, हरि कृष्ण, 17 बी, प्रथम क्रॉस रोड, पाथी नगर, बेल्लारी-583103 को 16 अगस्त, 2008 से प्रभावी इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के तत्कालीन वाणिज्य मंत्रालय, की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 के साथ उपावद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क और मैंगनीज अयस्क, मैंगनीज डायऑक्साइड को छोड़कर बेल्लारी में निर्यात से पूर्व उक्त मैंगनीज और अयस्क के निरीक्षण के लिए निम्नलिखित शर्तों के अधीन निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

- (i) मैसर्स एसन एंड कंपनी, बेल्लारी, खनिज और अयस्क, समूह-I का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगा,
- (ii) मैसर्स एसन एंड कंपनी, बेल्लारी, इस अधिसूचना के अधीन अपने कृत्यों के पालन में निदेशक (निरीक्षण और क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निर्देशों से आबद्ध होंगी।

[फाईल सं. 5/16/2008-ईआई एंड ईपी]

किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3218.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Essen and Company, Hari Krupa, 17B, 1st Cross Road, Gandhi Nagar, Bellary-583103, as an agency for a further period of three years with effect from 16th August, 2008 through publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore and Manganese Ore excluding Manganese Dioxide specified in the Schedule annexed to the notification of the Government of India in the erstwhile Ministry of Commerce number S.O. 3975 dated the 20th December, 1965, prior to the export, of the said Minerals and Ores at Bellary, subject to the following conditions, namely :—

- (i) that M/s. Essen and Company, Bellary shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under Rule 4 of the Export of Minerals and Ores-Group-I (Inspection) Rules, 1965;
- (ii) that M/s. Essen and Company, Bellary in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F.No. 5/16/2008- EI & EP]

KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3219.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स जनरल इन्स्पेक्शन और सैम्पलिंग कम्पनी, प्लॉट नं. आर-11, इंडस्ट्रियल इस्टेट, डाम रोड, होस्पेट-583203 को इस अधिसूचना के प्रकाशन के माध्यम से 16 अगस्त, 2008 से और तीन वर्ष की अवधि के लिए भारत सरकार के तत्कालीन वाणिज्य मंत्रालय, की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 से उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज तथा अयस्क (समूह-I) अर्थात् लौह अयस्क का होस्पेट में निर्यात से पूर्व निरीक्षण हेतु निम्नलिखित शर्तों के अधीन रहते हुए, निरीक्षण करने के लिए एतद्वारा एक अधिकरण के रूप में मान्यता देती है, अर्थात् :-

- (i) मैसर्स जनरल इन्स्पेक्शन और सैम्पलिंग कम्पनी, होस्पेट खनिज तथा अयस्क, समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई पद्धति की जांच करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्दिष्ट अधिकारियों को पर्याप्त सुविधाएं देगी;
- (ii) मैसर्स जनरल इन्स्पेक्शन और सैम्पलिंग कम्पनी, होस्पेट इस अधिसूचना के अधीन अपने कर्त्यों के पालन में निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निदेशों से आबद्ध होगी।

[फा. सं. 5/17/2008-ईआई एंड ईपी]

किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3219.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of Rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. General Inspection and Sampling Company, Plot No. R-11, Industrial Estate, Dam Road, Hospet-583203, as an agency for a further period of three years with effect from 16th August, 2008 through publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore as specified in the Schedule annexed to the notification of the Government of India in the erstwhile Ministry of Commerce number S.O. 3975 dated the 20th December, 1965, prior to the export, of the said Minerals and Ores at Hospet, subject to the following conditions, namely :—

- (i) that M/s. General Inspection and Sampling Company, Hospet shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under Rule 4 of the Export of Minerals and Ores-Group-I (Inspection) Rules, 1965;
- (ii) that M/s. General Inspection and Sampling Company, Hospet in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F.No. 5/17/2008- EI & EP]

KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3220. — केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स मित्रा एस. के. प्राइवेट लिमिटेड, "मैरीन ऑफिस कॉम्प्लेक्स" मोहसिन इस्टेट, ऊपरी मंजिल, डी नं. 23-3-6, 75 फीट रोड, विशाखापत्तनम को इस अधिसूचना के प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के तत्कालीन वाणिज्य मंत्रालय, की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 से उपावद्ध अनुसूची में यथाविनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क, मैंगनीज अयस्क मैंगनीज डायऑक्साइड को छोड़कर और फ़ैरोमैंगनीज का निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रहते हुए, विशाखापत्तनम में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता प्रदान करती है, अर्थात् :-

- (i) मैसर्स मित्रा एस. के. प्राइवेट लिमिटेड, विशाखापत्तनम, खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए, उनके द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने के लिए, इस निम्न निर्यात निरीक्षण परिपद् द्वारा नामनिर्देशित अधिकारियों को पर्याप्त सुविधाएं देगी;
- (ii) मैसर्स मित्रा एस. के. प्राइवेट लिमिटेड, विशाखापत्तनम, इस अधिसूचना के अधीन अपने कृत्यों के पालन में ऐसे निदेशों से जा, निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण), निर्यात निरीक्षण परिपद् द्वारा समय-समय पर लिखित में दिए जाएं, आवद्ध होंगे।

[फा. सं. 5/18/2008-ईआई एंड ईपी /
किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3220. — In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rule (2) of Rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Mitra S. K. Private Ltd., "Marine Office Complex" Mohsin Estate, Top Floor, D.No. 23-3-6, 75 Feet Road, Visakhapatnam, as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore, Manganese Ore excluding Manganese Dioxide and Ferromanganese, as specified in the Schedule annexed to the notification of the Government of India in the erstwhile Ministry of Commerce number S.O. 3975 dated the 20th December,

1965 prior to the export of the said Minerals and Ores at Visakhapatnam, subject to the following conditions, namely :—

- (i) that M/s. Mitra S. K. Private Ltd., Visakhapatnam shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under Rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and
- (ii) that M/s. Mitra S. K. Private Ltd., Visakhapatnam in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time

[F. No. 5/18/2008-EE & EP]
KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3221. — केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप-नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ईटालैब प्राइवेट लिमिटेड, 122/सी, मुलाकाला रामा कृष्ण कॉम्प्लेक्स, तारा नाथ गवर्नमेंट आयुर्वेदिक मेडिकल कॉलेज के पीछे, अन्नपुर रोड, बेल्लारी-583101 को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के तत्कालीन वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 से साथ उपावद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क, के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन, बेल्लारी में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अधिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) मैसर्स ईटालैब प्राइवेट लिमिटेड, बेल्लारी खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई पद्धति का परीक्षण करने के लिए, इस निम्न निर्यात निरीक्षण परिपद् द्वारा नामनिर्देशित अधिकारियों को पर्याप्त सुविधाएं देगी;
- (ii) मैसर्स ईटालैब प्राइवेट लिमिटेड, बेल्लारी, इस अधिसूचना के अधीन अपने कृत्यों के अनुपालन में निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) निर्यात निरीक्षण परिपद् द्वारा समय-समय पर लिखित में दिए गए निदेशों से आवद्ध होंगे।

[फा. सं. 5/20/2008-ईआई एंड ईपी /
किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3221.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rules (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Italab Private Limited, 122/C, Mulakala Rama Krishna Complex, Opp. Taranath Government Ayurvedic Medical College, Anantapur Road, Bellary-583101, as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore as specified in the Schedule annexed to the notification of the Government of India in the erstwhile Ministry of Commerce number S.O. 3975 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Bellary, subject to the following conditions, namely :—

- (i) that M/s. Italab Private Limited, Bellary shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and
- (ii) that M/s. Italab Private Limited, Bellary in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/20/2008-EI & EP]
KIRAN PURI, Director

नई दिल्ली, 18 नवम्बर, 2008

का. आ. 3222.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) नियम, 1964 के नियम 12 के उप नियम (2) के साथ पठित, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ईटालैब प्राइवेट लिमिटेड, "साई सदन", 24-3-6, मेन रोड, पुराने पोस्ट ऑफिस के निकट, विशाखापत्तनम- 530001 को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष की अवधि के लिए भारत सरकार के तत्कालीन वाणिज्य मंत्रालय, की अधिसूचना सं. का.आ. 3975 तारीख 20 दिसम्बर, 1965 के साथ उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क (समूह-1) अर्थात् लौह अयस्क, अयस्क के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन, विशाखापत्तनम में उक्त खनिजों और अयस्कों का निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :—

- (i) कि मैसर्स ईटालैब प्राइवेट लिमिटेड, विशाखापत्तनम खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण का प्रमाण-पत्र देने के लिए उनके द्वारा अपनाई गई प्रक्रिया का परीक्षण करने के लिए, इस निमित्त निर्यात निरीक्षण परिषद् द्वारा नामनिर्देशित अधिकारियों को पर्याप्त सुविधाएं देगी; और
- (ii) मैसर्स ईटालैब प्राइवेट लिमिटेड, विशाखापत्तनम, इस अधिसूचना के अधीन अपने कर्त्यों के पालन में निदेशक (निरीक्षण एवं क्वालिटी नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर लिखित में दिए गए निदेशों से आबद्ध होंगे।

[फा. सं. 5/21/2008-ईआई एंड ईपी]
किरण पुरी, निदेशक

New Delhi, the 18th November, 2008

S.O. 3222.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), read with sub-rules (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government hereby recognises M/s. Italab Private Limited, "Sai Sadhan", 24-3-6, Main Road, Near Old Post Office, Visakhapatnam-530001, Andhra Pradesh as an agency for a period of three years with effect from the date of publication of this notification, for inspection of Minerals and Ores (Group-I), namely, Iron Ore as specified in the Schedule annexed to the notification of the Government of India in the erstwhile Ministry of Commerce number S.O. 3975 dated the 20th December, 1965, prior to the export of the said Minerals and Ores at Visakhapatnam, subject to the following conditions, namely :—

- (i) that M/s. Italab Private Limited, Visakhapatnam shall give adequate facilities to the officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by them in granting the certificate of inspection under rule 4 of the Export of Minerals and Ores, Group-I (Inspection) Rules, 1965; and
- (ii) that M/s. Italab Private Limited, Visakhapatnam in the performance of their function under this notification shall be bound by such directives as the Director (Inspection and Quality Control), Export Inspection Council may give in writing from time to time.

[F. No. 5/21/2008-EI & EP]
KIRAN PURI, Director

विद्युत मंत्रालय

नई दिल्ली, 20 नवंबर, 2008

क्र.आ. 3223.- विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा दिनांक 17-8-2006 को उसके अंतर्गत जारी विद्युत अधिनियम की अधिसूचना और दिनांक 18-1-2006 के का.आ. 295 में औषिक संशोधन के अंतर्गत दिल्ली मेट्रो रेल कार्पोरेशन लि. के निम्नलिखित अधिकारी दिनांक 18-1-2006 की अधिसूचना में विनिर्दिष्टानुसार अवधि तक विद्युत निरीक्षक/सहायक विद्युत निरीक्षक के रूप में कार्य करने लगे:-

क्र.	अधिकारी का नाम	पदनाम	धारित पद
1.	श्री ए.आ. शर्मा	कार्यकारी निरीक्षक, (विद्युत)	विद्युत निरीक्षक
2.	श्री ए.के. गुला	मुख्य वैद्युत अभियंता	विद्युत निरीक्षक
3.	श्री सुशील कुमार	उप मुख्य वैद्युत अभियंता	सहायक विद्युत निरीक्षक
4.	श्री रुपेश कुमार	उप मुख्य वैद्युत अभियंता	सहायक विद्युत निरीक्षक

1. श्री ए.आ. शर्मा, उप मुख्य वैद्युत अभियंता अपनी प्रतिनियुक्ति अवधि की समाप्ति पर रेलवे बोर्ड में वापस चले गए हैं और इस अधिसूचना के जारी होने की तारीख से वे सहायक विद्युत निरीक्षक के रूप में अपने दायित्वों से मुक्त हो जायेंगे।

(फा. नं. 42-4-(1)-2001-अर एंड आर)

आई. एम. जे. कंसरी, संयुक्त सचिव

MINISTRY OF POWER

New Delhi, the 20th November, 2008

S.O. 3223. - In exercise of the powers conferred by sub-section (1) of Section 162 of the Electricity Act 2003 (36 of 2003) read with Ministry of Power's Notification dated 17-8-2006 issued thereunder and in partial modification of the Ministry of Power's Notification S.O. 295 dated 18-1-2006, the following officers of the Delhi Metro Rail Corporation Ltd. continue to function as Electrical Inspector Assistant Electrical Inspector till such period as indicated in the Notification dated 18-1-2006:-

No.	Name of officer	Designation	Presently functioning as
1.	Shri Shashi Sharma	Executive Director (Electrical)	Electrical Inspector
2.	Smt A. K. Gul	Chief Electrical Engineer	Electrical Inspector
3.	Shri Susheel Kumar	Deputy Chief Electrical Engineer	Assistant Electrical Inspector
4.	Shri Rupesh Kumar	Deputy Chief Electrical Engineer	Assistant Electrical Inspector

2. Shri A. A. Sharma, Deputy Chief Electrical Engineer on deputation after completion of his tenure has got repatriated to the Railway Board, & will cease to discharge the duties of Assistant Electrical Inspector w.e.f. date of issue of this notification.

(F. No 42-1(i)-2001-R&R)

I.C.P. KISHORI, Jr. Secy.

नई दिल्ली, 20 नवम्बर, 2008

क्र.आ. 3223.- विद्युत अधिनियम, 2003 (2003 का 36) की धारा 162 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्र सरकार अधिनियम दिनांक 17-8-2006 को संशोधन अधिनियम में जारी अधिसूचना के अंतर्गत, केंद्र शासित क्षेत्र दिल्ली मेट्रो रेल कार्पोरेशन लि. के निम्नलिखित अधिकारियों का विद्युत निरीक्षक के पद पर नियुक्त किया गया।

सं.	अधिकारी का नाम सर्वश्री	पदनाम	तैनाती का स्थान
1.	मुरारी लाल	अधीक्षण अभियंता	आरआईओ (एन), नई दिल्ली
2.	ए. के. बंधोपाध्याय	अधीक्षण अभियंता	आरआईओ (पूर्व), कोलकाता
3.	पी. के. मिश्रा	अधीक्षण अभियंता	आरआईओ (एस), चेन्नई
4.	ओ. पी. सिंह	अधीक्षण अभियंता	आरआईओ (डब्ल्यू), मुंबई
5.	एम. अनिल कुमार पी. सिंह	अधीक्षण अभियंता	आरआईओ (एनई), शिलांग
6.	ओ. पी. गुप्ता	निदेशक	ई.आई. डिवीजन
7.	राम चन्द्र	उप निदेशक	ई.आई. डिवीजन
8.	बी. एस. वर्मा	उप निदेशक	ई.आई. डिवीजन
9.	एल. बी. मुआनथंग	उप निदेशक	आरआईओ (एनई), शिलांग
10.	डी. पी. सिंह	उप निदेशक	आरआईओ (डब्ल्यू), मुंबई
11.	एम. शिकुमार	सहायक निदेशक	आरआईओ (एस), चेन्नई
12.	आई. के. मेहरा	सहायक निदेशक	आरआईओ (एन), नई दिल्ली

[फा. सं. 42/4(ii)/2001-आर एंड आर]

आई. सी. पी. कंसरी, संयुक्त सचिव

New Delhi, the 20th November, 2008

S.O. 3224.— In exercise of the powers conferred by sub-section (1) of Section 162 of the Electricity Act 2003 (36 of 2003) read with Ministry of Power's Notification dated 17-8-2006 issued thereunder, the Central Government hereby appoints the following officials of Central Electricity Authority (CEA) as Electrical Inspectors :—

No.	Name of officer S/Shri	Designation	Place of Posting
1.	Murari Lal	Superintending Engineer	RIO (N), New Delhi
2.	A. K. Bandhyopadhyaya	Superintending Engineer	RIO (E), Kolkata
3.	P. K. Mishra	Superintending Engineer	RIO (S), Chennai
4.	O. P. Singh	Superintending Engineer	RIO (W), Mumbai
5.	M. Anil Kr. P. Singh	Superintending Engineer	RIO (NE), Shillong
6.	O. P. Gupta	Director	E.I. Division
7.	Ram Chandra	Deputy Director	E.I. Division
8.	B. S. Verma	Deputy Director	E.I. Division
9.	L. B. Muanthang	Deputy Director	RIO (NE), Shillong
10.	D. P. Singh	Deputy Director	RIO (W), Mumbai
11.	M. Shikumar	Assistant Director	RIO (S), Chennai
12.	I. K. Mehra	Assistant Director	RIO (N), New Delhi

[F. No. 42/4(ii)/2001-R&R]

नई दिल्ली, 26 नवंबर, 2008

क्र.आ. 3225.—सार्वजनिक परिसर (अनाधिकृत कब्जाधारियों का निष्कासन) अधिनियम 1971 (1971 का 40) की धारा 3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार, विद्युत मंत्रालय की अधिसूचना सं. एस.ओ. 2456, दि. 12 नवम्बर, 1998 का अधिक्रमण करते हुए केंद्र सरकार एवम्/द्वारा नीचे दी गई तालिका के कॉलम (2) में उल्लिखित अधिकारियों, जो केंद्र सरकार के गैजेटित अधिकारी श्रेणी के समतुल्य अधिकारी हैं, को उक्त अधिनियम के प्रयोजनार्थ सम्यक् अधिकारी के रूप में नियुक्त करती है तथा वे सार्वजनिक परिसर श्रेणियों के संबंध में उक्त अधिनियम के द्वारा या तहत दी गई प्रदत्त शक्तियों का एवं उक्त तालिका के कॉलम (3) में सामने दी गई प्रविष्टियों में विनिर्दिष्ट क्षेत्राधिकार की स्थानीय सीमाओं के भीतर प्रयोग करेंगे एवं कर्तव्यों का निर्वहन करेंगे।

सारणी

क्र. सं.	संपदा अधिकारी	सार्वजनिक परिसरों की श्रेणियां एवं क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)	(3)
1	"उप महाप्रबंधक (टाउनशिप)" टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड टिहरी	टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड के कोटी, भागीरथीपुरम तथा नई टिहरी शहर सहित टिहरी के अन्य स्थानों के परिसर या वहां टोपचंडीसी द्वारा या की ओर से पट्टे पर या किसी विशेष प्रयोजनार्थ लिए गए परिसर।
2	"उप महाप्रबंधक (टाउनशिप)" टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड कोटेश्वर	टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड के कोटेश्वर, के परिसर या वहां टोपचंडीसी द्वारा या की ओर से पट्टे पर या किसी विशेष प्रयोजनार्थ लिए गए परिसर।
3	"वरि. प्रबंधक (टाउनशिप)" टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड पीपलकोटी	टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड के पीपलकोटी, गंधानावाला, मलंगी झेलम, जोशीमठ, करमौली, जाधोगा, बेंकांग-बेंलिंग, धारचूला के परिसर या वहां टोपचंडीसी द्वारा या की ओर से पट्टे पर या किसी विशेष प्रयोजनार्थ लिए गए परिसर।
4	"वरि. प्रबंधक (टाउनशिप)" टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड ऋषिकेश	टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड के ऋषिकेश, हरिद्वार, देहरादून, नागवा के परिसर या वहां टोपचंडीसी द्वारा या की ओर से पट्टे पर या किसी विशेष प्रयोजनार्थ लिए गए परिसर या उपरोक्त संदर्भित क्र. सं. 1 से 3 के सामने कॉलम (3) को छोड़कर, टिहरी हाइड्रो डेवलपमेंट कारपोरेशन लिमिटेड के कोई अन्य सार्वजनिक परिसर।

[फा. सं. 11/8/2007-एच.आई.]

गम फल, अवर सचिव

New Delhi, the 26th November, 2008

S.O. 3225.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the notification of the Government of India in the Ministry of power number S.O. 2456, dated the 12th November, 1998, the Central Government hereby appoints the officers mentioned in column (2) of the Table below, being officers equivalent to the rank of the gazetted officer of the Central Government, to be estate officers for the purposes of the said Act, and they shall exercise the powers conferred, and perform the duties imposed on them by or under the said Act in respect of the categories of public premises and within the local limits of jurisdiction, specified in the corresponding entries in column (3) of the said Table.

TABLE

Sl. No.	Estate Officers	Categories of public premises and the local limits of jurisdiction
(1)	(2)	(3)
1.	"DY. GENERAL MANAGER (TOWNSHIP)" Tehri Hydro Development Corporation Limited, TEHRI	Premises belonging to, or taken on lease, or requisitioned, by or on behalf of, the Tehri Hydro Development Corporation Limited at Koti, Bhagirathipuram and other places in Tehri including New Tehri Town.
2.	"DY. GENERAL MANAGER (TOWNSHIP)" KOTESHVAR	Premises belonging to, or taken on lease, or requisitioned, by or on behalf of, the Tehri Hydro Development Corporation Limited at Koteshwar.

(1)	(2)	(3)
3.	"SR. MANAGER (TOWNSHIP)" Tehri Hydro Development Corporation Limited, PIPALKOTI	Premises belonging to, or taken on lease, or requisitioned, by or on behalf of, the Tehri Hydro Development Corporation Limited at Pipalkoti, Gohanatal, Malari, Jhelum, Joshimath, Karmoli, Jadganga, Bokang-Bailing, Dharchula.
4.	"SR. MANAGER (TOWNSHIP)" Tehri Hydro Development Corporation Limited, RISHIKESH	Premises belonging to, or taken on lease, or requisitioned, by or on behalf of, the Tehri Hydro Development Corporation Limited at Rishikesh, Haridwar, Dehradun, NOIDA or any other public premises belonging to the Tehri Hydro Development Corporation Limited excluding column 3 against Sl. No. 01 to 03 referred to above.

[F. No. 11/8/2007-H.I.]
RAM PHAL, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 24 नवम्बर, 2008

का.आ. 3226.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1885 (भाग 10): 2008/आईसी 60050(448): 1995 विद्युत तकनीकी शब्दावली भाग 10 पॉवर ग्रणाली का संरक्षण (दूसरा पुनरीक्षण)	—	अगस्त, 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ: ईटी 01/टी-4]

प्रकाश बचानी, निदेशक एवं प्रमुख (विद्युत तकनीकी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 24th November, 2008

S.O. 3226.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 1885 (Part 10): 2008/IEC 60050(448): 1995 Electrotechnical Vocabulary Part 10 Power system protection (Second Revision)	—	August, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram

[Ref: ET 011-4]

Prakash Bachani, Director & Head (Electrotechnical)

नई दिल्ली, 24 नवम्बर, 2008

का.आ. 3227.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हों, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1885 (भाग 72): 2008/आईसी 60050-101: 1998 विद्युत तकनीकी शब्दावली : भाग 101 गणित (पहला पुनरीक्षण)	—	मई, 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयम्बर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध है ।

[संदर्भ: ईटी 01.टी-35]

प्रकाश बचानी, निदेशक एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 24th November, 2008

S.O. 3227.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards particulars of which is given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 1885 (Part 72): 2008 IEC 60050-101: 1998 Electrotechnical Vocabulary Part 72 Mathematics	—	May, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 01/T-35]

PRAKASH BHCHANI, Director & Head (Electrotechnical)

नई दिल्ली, 24 नवम्बर, 2008

का.आ. 3228.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1885 (भाग 15): 2008/ आई ई सी 60050(482): 2004 विद्युत तकनीकी शब्दावली भाग 15 प्राथमिक और द्वितीयक सैल एवं बैटरियां (दूसरा पुनरीक्षण)	—	अगस्त, 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : ई टी 01/टी-7]

प्रकाश बचानी, निदेशक एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 24th November, 2008

S.O. 3228.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl. No.	No. and Year of the Indian Standard	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 1885 (Part 15): 2008/IEC 60050(482): 2004 Electrotechnical Vocabulary Part 15 Primary and secondary cells and batteries (Second Revision)		August, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 01/T-7]

PRAKASH BACHANI, Director and Head (Electrotechnical)

नई दिल्ली, 24 नवम्बर, 2008

का.आ. 3229. भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1885 (भाग 57): 2008/ आई ई सी 60050-131 : 2002 विद्युत तकनीकी शब्दावली भाग 131 सर्किट सिद्धांत (दूसरा पुनरीक्षण)	—	मई, 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुरशाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलूर, भोपाल, भुवनेश्वर, कोयम्बटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ई टी 01 टी-28]

प्रकाश बखानी, निदेशक एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 24th November, 2008

S.O. 3229.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies the Indian Standards to the Indian Standards, particulars of which is given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl. No.	No. and Year of the Indian Standard	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 1885 (Part 57): 2008/IEC 60050-131 : 2002 Electrotechnical Vocabulary Part 57 Circuit Theory (Second Revision)	—	May, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : ET 01 T-28]

PRAKASH BACHANI, Director and Head (Electrotechnical)

नई दिल्ली, 27 नवम्बर, 2008

का.आ. 3230.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे खूद कर दिए गए हैं और वापस ले लिए गये हैं :

अनुसूची

क्रम संख्या	रद्द किये गये मानक(कों) की संख्या, वर्ष और शीर्षक	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का. आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)	(4)
1.	आई एस 1613 : 1960 दुग्ध बोटल क्रेटस की विशिष्टि	का. आ. संख्या 2960 तिथि 10-12-1960	यह उत्पाद और मानक अब उपयोग में नहीं हैं।
2.	आई एस 6387 : 1997 दुग्ध के साथ वनस्पति प्रोटीन शिशु खाद्य की विशिष्टि	का. आ. संख्या 1551 तिथि 02-06-1990	आई एस 14433 : 2007 'शिशु दुग्ध के वैकल्पिक आहार-विशिष्टि' (पहला पुनरीक्षण) द्वारा अतिक्रमित।

[संदर्भ : एफएडी/जी-128]

एस. सी. खोसला, वैज्ञानिक एफ एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 27th November, 2008

S.O. 3230.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, it is hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule give hereafter, have been cancelled and stand withdrawn.

SCHEDULE

Sl. No.	No. and Year of the Indian Standard Cancelled	S.O. No. & Date published in the Gazette of India, Part II, Section 3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 1631 : 1960 Specification for milk bottle crates	S. O. No 2960 Dated 10-12-1960	The product and therefore the Standard is no longer in use
2.	IS 6387 : 1997 Specification for vegetable protein infant food with milk	S. O. No 1551 Dated 02-06-1990	Superseded by IS 14433 : 2007 'Infant milk substitutes- Specification (first version).

[Ref : FAD/G-128]

S. C. KHOSLA, Scientist F and Head (Food & Agri.)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 1 दिसम्बर, 2008

का.आ. 3231.—भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 1777 (अ) तारीख 12-07-2004 द्वारा श्री एम. कन्दासामी स्पेशल तहसीलदार को तमिलनाडु राज्य एवं पुडुचेरी यूनेयन टैरीटरी में मैसर्स गेल (इंडिया) लिमिटेड द्वारा पाइपलाइन बिछाने के लिये उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए नियुक्त किया था।

और उक्त श्री एम. कन्दासामी का स्थानांतरण हो गया है और श्री बी. पुनियाकोटी को उनके पद पर नियुक्त किया गया है।

और उक्त श्री एम. कन्दासामी का मैसर्स गेल (इंडिया) लिमिटेड में अतिरिक्त कार्य भार समाप्त कर दिया गया है।

अतः अब भारत सरकार उक्त अधिनियम की धारा 2 के खंड (क) के अनुसरण में नीचे दी गई अनुसूची के स्तंभ (1) में वर्णित व्यक्ति को श्री एम. कन्दासामी के उत्तराधिकारी के रूप में उक्त मैसर्स गेल (इंडिया) लिमिटेड द्वारा पाइपलाइन बिछाने के लिए नियुक्त करने के लिए अनुसूची के स्तंभ (2) में वर्णित क्षेत्र में उक्त अधिनियम के अधीन सक्षम प्राधिकारी के कृत्यों का पालन करने के लिए नियुक्त करता है।

अनुसूची

व्यक्ति का नाम और पता	अधिकारिता का क्षेत्र
(1)	(2)
श्री जी. पुनियाकाडी, स्पेशल तेहसीलदार मैसर्स गैल (इण्डिया) लिमिटेड में प्रतिनिधित्व पर गैल (इण्डिया) लिमिटेड, 172, कामराजरा सैकल, कर्नाकल-609602	सम्पूर्ण तमिल नाडु एवं पुडुचेरी युनियन टेरिटरी

[F. No. L-14014/08/08 जी.पी.]

के. के. शर्मा, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 1st December, 2008

S.O. 3231. Whereas, in pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in) and Act, 1962 (50 of 1962), the Government of India vide notification of Government of India in the Ministry of Petroleum and Natural Gas S.O. 1777 dated 12th July, 2008 appointed Shri M. Kandasamy, Special Tehsildar to perform the functions of the Competent Authority under the said Act for laying of the pipeline by M's GAIL (India) Limited in the State of Tamil Nadu and Union Territory of Puducherry.

And, whereas, Shri M. Kandasamy has been transferred and Shri V. Punniakodi, Special Tehsildar has been posted as his incumbent.

And, whereas, the deputation of the said Shri M. Kandasamy with M's. GAIL (India) Limited has come to an end.

Now, therefore, in pursuance of clause (a) of Section (2) of the said Act, the Government of India hereby authorizes the person mentioned in column (1) of the schedule given below to perform the functions of the Competent Authority under the said Act for laying pipelines by the said M's. GAIL (India) Limited in the area mentioned in column (2) of the said schedule in succession of Shri M. Kandasamy.

SCHEDULE

Name and Address of the person	Area of Jurisdiction
Shri V. Punniakodi, Special Tehsildar, On deputation basis to M's GAIL (India) Limited, 172, Kamarajar Sackal, Karnakal-609602	Whole State of Tamil Nadu & Union Territory of Puducherry

[F.No. L-14014/08/08-G.P.]

K. K. SHARMA, Under Secy.

नई दिल्ली, 1 दिसंबर, 2008

को.आ. 3232. भारत सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसके द्वारा उसके पश्चात् उक्त अधिनियम अंग्रेजी में) की धारा 3 की उप-धारा (1) के अधीन जारी भारत सरकार के पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 (1962 का 50) के अधिनियम के अधिनियम संख्या को. आ. 1380 तारीख 24 अगस्त, 2006 द्वारा, इस अधिनियम से संलग्न अनुसूची में निर्धारित भूमि में गैल (इण्डिया) लिमिटेड द्वारा महागट्ट गैल में दहेज, हजोरा-उशन एवं स्पर पाइपलाइन (इम्पल इंडस्ट्रीज लिमिटेड, इसार सैकशन) परिवहन के माध्यम से प्रकृतिक गैस के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन करने के अपने आशय को व्यक्त की थी।

और उक्त अधिनियम अधिनियम की प्रतियां जनवरी 20-10-2006 से 20-10-2007 तक संचालित करा दी गई थीं।

अतः, अब, भारत सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइनें बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और, भारत सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निर्देश देती है कि पाइपलाइनें बिछाने के लिए भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को, भारत सरकार में निहित होने के बजाए पाइपलाइनें बिछाने का प्रस्ताव करने वाली गैल (इण्डिया) लिमिटेड में निहित होगा और तदुपरि, भूमि में ऐसे उपयोग का अधिकार, इस प्रकार अधिरोपित निबंधनों और शर्तों के अधीन रहते हुए, सभी विल्लंगमों से मुक्त, गैल (इण्डिया) लिमिटेड में निहित होगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नं. आर. ओ. यू. अर्जित करने के लिए क्षेत्रफल (हेक्टेयर में)
रायगढ़	अलिबाग	तलाशेत 56	00-08-00
रायगढ़	अलिबाग	कोलघर 34	00-11-25

[फा. सं. एल-14014/10/2007-जी. पी.]

के. के. शर्मा, अवर सचिव

New Delhi, the 1st December, 2008

S.O. 3232.—Whereas by notification of Government of India in Ministry of Petroleum and Natural Gas number S.O.No. 3380(E) dated 24th August, 2006 issued under sub-section (1) of Section 3 of the petroleum and Minerals pipelines (Acquisition of Right of Users in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Government of India declared its intention to acquire the Right of Users in the land specified in the Schedule appended to that notification of the purpose of laying pipeline for the transportation of natural gas through Dahej-Hazira-Uran and its spur pipeline (Ispat Industries Ltd.-Usar Section) project in the State of Maharashtra by GAIL (India) Limited;

And whereas copies of the said Gazette notification were made available to the public from 20-10-2006 to 20-10-2007,

And whereas the Competent Authority has, under sub-section (1) of Section 6 of the said Act, submitted its report to the Government of India;

And whereas Government of India has, after considering the said report, decided to acquire the Right of User in the land specified in the Schedule,

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Government of India hereby declares that the Right of Users in the land specified in the Schedule is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Government of India hereby directs that the Right of Users in the said land for laying the pipelines shall, instead of vesting in the Government of India, vest, on this date of the publication of the declaration, in GAIL (India) Limited, free from all encumbrances.

SCHEDULE

District	Tehsil	Village	Survey No.	Area to be acquired for ROU (In Hectare)
Raigad	Alibaug	Talashet	56	00-08-00
Raigad	Alibaug	Kolghar	34	00-11-25

[F.No. L-14014/10/2007-G.P.]

K. K. SHARMA, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 5 नवम्बर, 2008

का.आ. 3233.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में, श्री. सी. सी. एल. के प्रबंधन के संबंध निर्यातकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या नं. 1, धनबाद के पंचाट (संदर्भ सं. 128/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल. 20012/28/99-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 5th November, 2008

S.O. 3233. In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 128/1999) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 5-11-2008.

[No.1-20012/28/99-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD****PRESENT: H. M. SINGH, Presiding Officer**

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 128 OF 1999**PARTIES:** Employers in relation to the management of Kusunda Area VI of M/s. BCCL and their workman**APPEARANCES:**On behalf of the workman: Mr. N. G. Arun,
Organising Secretary, R.C. M.S.On behalf of the employers: Mr. D. K. Verma, Advocate
State: Jharkhand Industry: Coal

Dated, Dhanbad, the 29th October, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section

10(1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/28/99-I. R. (C-1), dated, the 4th June, 1999

SCHEDULE

"Whether the action of the Management of Kusunda Area of BCCL in not providing employment to the only alive wife (second wife) Smt. Chandrakala Devi in place of Sri Jagat Bahadur Ex-Night Guard of Godhar Colliery under Clause 9.4.0 of NCWA-V is justified? If not, to what relief the dependant is entitled?"

2. In the W. S. filed on behalf of the workman it has been stated that Jagat Bahadur had been working at Godhar Colliery of Kusunda Area under Bharat Coking Coal Limited as Night Guard since 17-10-71. He had been declared medically unfit for original job by the Medical Board and as per their advice he was stopped from duty w.e.f. 23-9-91 *vide* letter dated 17-9-91. After his stoppage from duty the workman had submitted all relevant papers to the Agent, Godhar Colliery for providing employment to his wife named Chandrakala Devi. The Agent, Godhar Colliery in his turn forwarded all relevant papers to the management of Kusunda Area and they recommended and forwarded the same to the Dy. Chief Personnel Manager (MP & R) Koyala Bhawan *vide* letter dt. 30-12-91. In this respect various correspondence was held between the management of headquarters Koyala Bhawan and the management of Kusunda Area from 1991 to 1994. Various queries had been floated over the matter and all points had been properly replied.

It has been stated that Jagat Bahadur, Ex-Night Guard had married Smt. Chandrakala Devi in the year 1980 after the death of his first wife Kamli Devi. The B.D.O., M.L.A., Mukhiya and Gram Sevak also have given certificate in this respect stating therein that Smt. Chandrakala Devi is the wife of Jagat Bahadur. The local management of Godhar Colliery and the management of Kusunda Area have also themselves established the genuineness and authenticity of Smt. Chandrakala Devi as a wife of Jagat Bahadur by recommending her case for employment. Other than Chandrakala Devi none has come forward being claimant for employment in lieu of Jagat Bahadur. Under clause 9.4.0 of NCWA-V since the management denied employment to Smt. Chandrakala Devi wife of Jagat Bahadur, the union of the workman raised industrial dispute before the AIC (C), Dhanbad which ultimately resulted reference to this Tribunal for adjudication. It has been prayed on behalf of the workman side that an award be passed in favour of the workman directing the management to provide employment to Smt. Chandrakala Devi in place of husband Jagat Bahadur, Ex-Night Guard of Godhar Colliery under clause 9.4.0 of NCWA-V.

3. In the W. S. filed by the management it has been stated by them that the present reference is not maintainable both in law and facts of the case. The demand for employment of the relation of the employee in a Public Sector Undertaking is ultravires the Articles 14 and 16 of the Constitution of India. Moreover, the Union has got no locus standi to demand for employment of the relative of any employee. It has further been stated that the provisions of NCWA does not create any legal right to any relative of the employee to demand employment in BCCL. The provisions of NCWA relating to the employment of the dependent can only be considered as a compassionate employment in suitable cases.

In their W. S. management have stated that Sri Jagat Bahadur was a permanent employee of M/s. Bharat Coking Coal Ltd. and was working as Night Guard at Godhar Colliery. In the year 1987 a service excerpt was issued to Sri Jagat Bahadur and he declared the following persons as his relatives/family members in the said service excerpts.

- | | | | |
|----|------------------|-----|----------|
| 1. | Smt. Kamali Devi | ... | Wife |
| 2. | Sri Minbahadur | ... | Son |
| 3. | Chinta Kumari | ... | Daughter |
| 4. | Sri Birbahadur | ... | Father |
| 5. | Smt. Shari Devi | ... | Mother |
| 6. | Kalibahadur | ... | Brother |
| 7. | Teli Devi. | | |

In course of his employment Sri Jagat Bahadur was declared medically unfit from his original job w.e.f. 22-8-91 and was latter stopped from work w.e.f. 17-9-91. Thereafter one Chandrakala Devi submitted an application for employment claiming to be the wife of Jagat Bahadur. Due to glaring difference of the age between Smt. Chandrakala Devi and Jagat Bahadur, the management made an enquiry and in the enquiry of the management Sri Jagat Bahadur replied that Smt. Chandrakala Devi is his second wife, though Sri Jagat Bahadur has not submitted any authentic document in this respect. Sri Jagat Bahadur also never informed the management during his service period regarding his second marriage with Chandrakala Devi. In the Service Excerpt issued in the year 1987 Sri Jagat Bahadur disclosed that Kamli Devi as his wife. He has also submitted a Death-Certificate issued by Dr. B. Banerjee dated 18-10-1975 that Smt. Kamali Devi died on 17-10-1975. In the Service Excerpt which has prepared in the year 1987, Smt. Kamali Devi was shown as the wife of Sri Jagat Bahadur, whereas the Death-Certificate also declares that Smt. Kamali Devi died on 17-10-1975, Chandrakala Devi is not the legally married wife of Jagat Bahadur. Accordingly it has been prayed on behalf of the employers to pass an Award rejecting the claim of the concerned workman.

4. Both the parties have filed their respective rejoinder admitting and denying the contents of some of the paras of each others W. S.

5. Management in order to substantiate their case has examined Shri B. P. Singh, as MW-1 who has proved document marked as Ext. M-1. On the side of the workman Chandrakala Devi has been examined as WW-1 and documents have been marked as Ext. W-1, W-2 and W-3.

6. Main argument on behalf of the management is that Kamali Devi was the first wife of Shri Jagat Bahadur and Kamali Devi died in the year 1975. Present Chandrakala Devi was married in 1980. In the service excerpt which was issued in 1987 Kamali Devi was mentioned as his wife. When Kamali Devi died in 1975 then how he was mentioned as his wife. He also argued that the document such as death certificate has got no meaning and cannot be accepted and no employment has been given to Chandra Kala Devi because her name was not mentioned in the Service Excerpt.

7. Ld. Counsel for the workman argued that as per clause 9.4.0 of NCWA-V management is bound to give employment to the dependent who was medically unfit by the Medical Board on 22-8-91 and stopped from work w.e.f. 17-9-91. Para-11 of the W. S. of the employer speaks as follows:—

“Due to glaring difference of the age between Smt. Chandrakala Devi and Jagat Bahadur the management made an enquiry and in the enquiry of the management Sri Jagat Bahadur replied that Smt. Chandrakala Devi is his second wife.”

It therefore appears that Jagat Bahadur, ex-employee of the management has stated that present workman is his second wife who is claiming for employment and only verbally saying by the management that present Chandrakala Devi is not dependant and legally married wife of Jagat Bahadur is not convincing because when Jagat Bahadur himself has given application and admitted by the management in his W. S. that Chandrakala Devi is his second wife, management has got no option but to treat her as wife of Jagat Bahadur, ex-employee of the management as per letter dt. 26-9-91 submitted by the said Jagat Bahadur for giving employment to Smt. Chandrakala Devi. Chandrakala Devi who has been examined as WW-1 has stated in her deposition on oath that she is the wife of Jagat Bahadur after death of Kamli Devi the first wife and the marriage took place in the year 1980. She has also filed a certificate regarding marriage of Jagat Bahadur. There is no ground for the management to treat the certificate filed by Chandrakala Devi as false. Ext. W-1 shows that Jagat Bahadur stated Chandrakala Devi as his second wife. As per Ext. W-2 employment has to be given if any employee becomes medically unfit as per NCWA-IV. The letter of the management dt. 20-7-92 shows that it has been admitted by the management the claim of Chandrakala Devi as second

wife of Jagat Bahadur and Mukhiya of the Godhar Village Panchayat also issued a certificate of marriage of Chandrakala Devi dt. 21-10-93. Dr. B. Banerjee issued a death certificate dt. 18-10-75 declaring death of Kamli Devi and Mr. S. P. Roy, M.L.A., Dhanbad of Bihar Vidhan Sabha issued a certificate dt. 3-9-93 regarding marriage of Chandrakala Devi with Jagat Bahadur and there is also a certificate from Prakhand Vikash Padadhikari, Dhanbad which shows Chandrakala Devi as wife of Jagat Bahadur. These are the documents which have to be accepted without if and but. But management has not accepted those to be the documents without any basis and cogent ground. Accordingly, following Award is rendered :—

"The action of the management of Kusunda Area of BCCL in not providing employment to the only alive wife (second wife) Smt. Chandrakala Devi in place of Shri Jagat Bahadur ex-Night Guard of Godhar Colliery under clause 9.4.0 of NCWA-V is not justified. Consequently, the said Chandrakala Devi is entitled for employment under the management.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का.आ. 3234.—औद्योगिक विवाद अभिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या 1, धनबाद के पंचाट (संदर्भ सं. 98/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/75/91-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3234.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 98/1991) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 5-11-2008.

[No L-20012/75/91-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

Present : SHRI HARI MANGAL SINGH, Presiding
Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act., 1947

Reference No. 98 of 1991

Parties : Employers in relation to the management of
Moonidih Project of M/s. Bharat Coking Coal Ltd. and
their workmen.

APPEARANCES :

On behalf of the workman : Shri S. Bose,
Secretary, R.C.M.S.

On behalf of the employers : Shri D. K. Verma, Advocate

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 20th October, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/75/91-I.R. (Coal-I), dated, the 11th October, 1991.

SCHEDULE

"Whether the action of the Management of Moonidih Project of M/s. Bharat Coking Coal Ltd., in dismissing from service Shri Bebu Singh, Temporary Miner Loader, T. No. 7310 w.e.f. 18/19-8-89 is justified? If not, to what relief is the workman entitled?"

2. Case of the workman as disclosed in the Written Statement submitted by the sponsoring union on behalf of the workman is that the concerned workman Shri Bebu Singh was employed by the management as Miner Loader *vide* letter dt. 13-2-87 issued by the General Manager, Moonidih Area as a dependant of Shri Srishthidhar Singh whose land of agriculture measuring more or less four acres was acquired by the management. Accordingly, employment was offered to the dependant of land loser in accordance with the rule practice prevailing with the management. Before appointment letter was issued by the management, through enquiry on the genuineness of the concerned workman Shri Bebu Singh as dependant of Shri srishthidhar Singh was conducted by them and thereafter the concerned workman was allowed on duty. It has been further stated that the management issued a chargesheet dated 5/6-11-87 on some vague allegations by the Superintendent of Mines, Moonidih Project and the concerned workman filed his reply dated 12-11-87 to the said chargesheet. Being not satisfied with the reply of the concerned workman management held a domestic enquiry in which the concerned workman participated and the management with a predetermined attitude dismissed the concerned workman from service with immediate effect by order of dismissal dated 18/19-8-89 issued by the Project Officer, Moonidih Project. It has been stated that the

management did not issue any intimation to Shri Srishtidhar Singh whose land was taken over by the management and the management has appointed Shri Bebu Singh on the recommendation of Shri Srishtidhar Singh that Shri Bebu Singh was his dependant and Shri Srishtidhar Singh had nominated Shri Bebu Singh for appointment as land loser dependant. Thereafter the union of the workman represented the matter before the management on various levels but of no avail. The Union then raised industrial dispute before the ALC (C), Dhanbad-I for conciliation and ultimately it resulted reference to this Tribunal for adjudication. It has been prayed that an Award be passed in favour of the workman with direction to the management to reinstate the concerned workman to his job with full back wages.

3. In the W.S. filed on behalf of the management it has been stated that the present reference is not legally maintainable. It has also been stated that Shri Bebu Singh declared himself as son of one Shri Sristidhar Singh of village-Bardhubhi, P.O. Karitand, P.S. Putki, Dist. Dhanbad and entered into the services of the management as dependant son of Shri Sristidhar Singh whose land was situated in the village-Bardhubhi. The concerned workman sworn in an affidavit declaring him as son of Shri Sristidhar Singh of Village-Bardhubhi, P.O. Karitand, P.S. Putki, District Dhanbad declared the names of other family members. He declared Shri Sristidhar as his father, Kutu Devi as mother, Ramashankar Singh as brother and Raimuni Devi as sister. He has declared Maina Devi as his wife and also stated that he had one daughter and two sons. On the basis of his declarations and the declaration of Shri Sristidhar Singh the concerned workman was appointed as Temporary Miner/Loader by appointment letter dated 13-12-1987. The management has further submitted that they provide employment to the descendants of the land owner whose land is acquired in order to give certain relief to such persons. It is submitted that no right is conferred on any person to claim for employment against the land acquired by the Govt. for mining purposes and handed over the same to a mining company. Each case is considered on its merit and the management can only provide job to the person whose land is acquired or to his son. There is no provision for giving any appointment to a person nominated by a land loser. Taking advantage of the situation the concerned workman approached Shri Sristidhar Singh to show him as his son and to give him employment. Thus the concerned workman adopted dishonest means by declaring him as son of Sri Sristidhar Singh and got himself appointed as son of Shri Sristidhar Singh. However, latter it was discovered that the concerned workman was the son of Shri Kanati Singh of village-Behrakudur and was not the son of Shri Sristidhar Singh of Bardubhi. It was pointed out that he was the son-in-law of Shri sristidhar Singh. Thereafter mangement issued a chargesheet dated 5/6-11-89 for commission of misconduct

of giving false information regarding his father's name which helped with in securing the employment of Temporary Miner/Loader. The concerned workman submitted his reply admitting his guilt to the effect that he declared Shri Sristidhar Singh of Bardubhi as his father all though he was his father-in-law. Thus the misconduct committed by him was established on his own admission. In that situation he was not entitled for continuance in the employment as his initial appointment was illegal and void. Thereafter the management appointed Shri S. Jha, Dy. P.M. Moonidih, Project of Moonidih Area as Enquiry Officer to conduct the departmental enquiry in the presence of the chargesheeted workman and his co-worker. The Enquiry Officer gave full opportunity to the concerned workman and his co-worker to cross-examine the management witnesses, to give his own statement and to produce his defence witnesses. The departmental enquiry was conducted fairly and properly in accordance with the principle of natural justice. After completing the enquiry the Enquiry Officer submitted his report holding the concerned workman guilty of the charges levelled against him. The management then considering the gravity of the misconduct and the enquiry proceeding and report and all other relevant papers dismissed him from services w.e.f. 19-8-89. It has been prayed that an Award be passed in favour of the management holding the dismissal of the concerned workman from service as justified and that the concerned workman is not entitled to get any relief.

4. In this case both the sides have filed their respective rejoinder admitting and denying the contents of some of paras of each other's W.S.

5. Regarding fairness and propriety of the domestic enquiry by hearing both parties my predecessor-in-office vide order No. 25 dated 24-10-94 held that it was fair and proper. Thereafter this case was fixed for hearing argument on merit.

6. Ld. Counsel for the workman argued that appointment of the concerned workman Bebu Singh was done as dependant of Sristidhar Singh whose agricultural land measuring more or less 4 acres was acquired by the management and employment was provided to the dependent of the land loser according to the rules/practice prevailing with the management and before issuance of apointment letter dt. 13-2-87 the management conducted through enquiry about the genuineness of the concerned workman Bebu Singh as dependant of Sristidhar Singh and only then the concerned workman was allowed to the duties. However, the management issued chargesheet dt. 5/6-11-87 on the vague allegation and the concerned workman has filed his reply dated 12-11-87. Order of dismissal was passed on 18/19-8-89 by the Project Officer, Moonidih Project. The management did not issue any intimation to Sristidhar Singh, hose land was taken over by the management and the management has appointed

Shri Babu Singh on recommendation of Sristidhar Singh as Sristidhar Singh nominated Shri Babu Singh as his dependant. Thus the management absorbed themselves from the liability of providing employment to land loser which is a must for the management according to the prevailing practice of the management administration. As per policy matter BCCL had acquired agricultural land near about existing coal mines on payment of price for the land and employment of one dependent of the land owner whose land was taken over by BCCL. He argued that as per NCWA-III a dependent has been including a son-in-law.

7. Ld. Counsel for the management argued that Babu Singh has not applied as son-in-law but applied as son and after thorough enquiry it was found that he was not the son of Sristidhar Singh, and under land loser scheme his dependent was given employment. The representative of the workman argued that son-in-law and son is same thing and there is actually no difference between son and son-in-law but workman has applied as son. Therefore, This dismissal cannot be termed in the same way because of the fact that he has given false information to the management and on the basis of false information he was appointed as son of Sristidhar Singh.

8. Ld. Counsel for the workman also referred Ref. No. 288/1990 between BCCL and Shri Ajit Singh of Moonidih Project and by Award dt. 7-3-2003 passed in the above Reference has been implemented by the management of Moonidih Project. In the same way and same footing this case has to be considered. Certified Copy of the Award of Ref. No. 288/90 has been filed by the workman. In the said Award there was difference of interpretation between 'Pitaji' and 'Baba' i.e. father and grand father and it shows that there was only dispute whether the Awardee was dependant of his father or grand father but in the present case the concerned workman has given false information and false address for his employment. In this respect the concerned workman gave affidavit declaring himself as son of Shri Sristidhar Singh of village-Bardubhi, P.O. Karitand, P.S. Putki, Distt. Dhanbad and also declared the names of other family members. He declared Shri Sristidhar as his father, Kutu Devi as sister. He has declared Maina Devi as his wife and also stated that he had one daughter and two sons. On this basis he was appointed as Temporary Miner Loader. But on enquiry it was discovered that he was son of Kanti Singh of Village-Behrakudur and was not the son of Shri Sristidhar Singh of Bardubhi. It shows that he gave false affidavit willfully making himself guilty by giving wrong information declaring and claiming as son of Sristidhar Singh of Bardubhi Village. Actually he belonged to another village and he was son of Shri Kanti Singh. As per order and affidavit dt. 28-3-87 given by the concerned workman Babu Singh which was in the enquiry proceeding shows that he has given information declaring himself as son of Sristidhar Singh of Village Bardubhi P.O. Karitand, P.S. Putki, Distt. Dhanbad. He has also stated in his affidavit in para-5 that

"I have not stated anything wrong and false information, if I have given and found incorrect then I may be terminated from the service." In this respect the concerned workman has filed certificate issued by Dr. Ayodhya Singh regarding his character treating Babu Singh as son of Sristidhar Singh which has got no value and also a certificate by the Secretary, Diwani Grampanchayat, Dhanbad dt. 20-3-86 in this respect. Ld. Counsel for the workman has argued that Sristidhar Singh has not been examined by the management. There is no need of examination of Sristidhar Singh by the management because it is the duty of the concerned workman to prove his case that he was the son of Sristidhar Singh. Ld. Counsel for the workman also argued that no other dependant of Sristidhar Singh was employed so the concerned workman should be in the service as dependent of Sristidhar Singh. I do not find any ground and strength on the argument of the Ld. Counsel for the workman.

9. Ld. Counsel for the workman also referred the provision of employment to dependants under clause 9.4.2 of NCWA-III which shows and includes son-in-law, daughter-in-law and widowed daughter. It is correct that as per NCWA-III son-in-law is dependent but it should be with open heart and when applied for employment it should be stated initially as son-in-law. In the present case the concerned workman has stated himself as son of Sristidhar Singh and not as son-in-law and gave false affidavit showing himself as son of Sristidhar Singh but actually he was son of Kanti Singh village Behrakudur. If he was actually dependant of Sristidhar Singh he should have mentioned in the affidavit as son-in-law of Sristidhar Singh and not as son of Sristidhar Singh. It shows that he has given false affidavit and false information to the management for getting appointment under the management and later on enquiry it was found that he was son of Kanti Singh and he gave wrong affidavit and false information. Saying himself as son of Sristidhar Singh and later saying in the enquiry that he was son of Sristidhar Singh shows that he has obtained employment fraudulently which amounts to gross misconduct and the management after thorough enquiry dismissed him from service rightly. I do not find any claim of the concerned workman. Accordingly, the following Award is rendered:

"The action of the management of Moonidih Project of M/s. Bharat Coking Coal Ltd. in dismissing from service Shri Babu Singh, Temporary Miner Loader T. No. 7310 w.e.f. 18-19-8-89 is justified. Consequently, the concerned workman is not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का.आ. 3235, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा (1) के अनुसूच में, केन्द्रीय सरकार में, श्री. सी. सी. एल. के प्रबंधन के संवद नियंत्रकों और उनके कर्मचारों

के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या नं. 1, धनबाद के पंचाट (संदर्भ सं. 83/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/365/91-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 83/1992) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 5-11-2008.

[No. L-20012/365/91-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

PRESENT : SHRI H. M. SINGH Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947

Reference No. 83 of 1992

PARTIES : Employers in relation to the management of Sudamdih Shaft Mines of M/s. Bharat Coking Coal Ltd. and their workman

APPEARANCES :

On behalf of the workman : None

On behalf of the employers : None

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 29th October, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/365/91-I. R. (Coal-I), dated, the 31st August, 1992.

SCHEDULE

"Whether the Action of the Management of Sudamdih Shaft Mine of M/s. BCCL, Dhanbad in dismissing Shri Manjurs Bauri, P.R. Miner *vide* their letter No. SMD : Dy : PM : DISCIP, 1977 dt. 23-6-89 is justified ? If not, to what relief the workman is entitled?"

2. In this case both the parties appeared at first through their authorised representative and filed their respective W.S. documents etc. At the stage of oral evidence subsequently they both abstained themselves from appearing before this Tribunal. Thereafter several adjournments were granted but the parties did not turn up even then. Since both the parties failed to turn up before this Tribunal in order to take further steps in this case, a 'No dispute' Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का.आ. 3236.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै सो. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या नं. 1, धनबाद के पंचाट (संदर्भ सं. 31/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/3/93-आई आर. (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3236.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/1994) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 5-11-2008.

[No. L-20012/3/93-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

PRESENT : SHRI HARI MANGAL SINGH, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947

Reference No. 31 of 1994

PARTIES : Employers in relation to the management of Central Coal fields Ltd and their workmen

APPEARANCES :

On behalf of the employers : Mr. D. K. Verma
Advocate.

On behalf of the workmen : Mr. B. B. Pandey, Advocate

State : Jharkhand

Industry : Coal

Dated: Dhanbad, the 21st October, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. I-20047 (2 of 14, R. (Final)), dated, the 21st February, 1994.

SCHEDULE

"Whether the demands of the workmen of Sital Dih Colliery, Bhirkunda Colliery, Central Saunda Colliery and Saunda Colliery of Barkakana Area of M/s. Central Coalfields Limited, Dist. Hazaribagh that management should treat 133 Clay Cartridge Mazdoors (as detailed in Annexure) as their workman and that they should be paid Category-I wages is justified? If not, to what relief are the said workman entitled and from what date?"

2. It appears from the record that by the corrigendum of even No. dated 11-11-2001 the names of some workmen have been withdrawn from Court of India, which has been corrected in red ink and shown in the annexure of order of reference. Besides the above as per petition from the said of the sponsoring union and order passed thereon by this Tribunal dtl. 3-8-2006 few names have been deleted and shown in red ink in the annexure hereto annexed.

3. In the W.S. filed on behalf of the concerned workmen it has been stated that the concerned workmen have been working as Clay Cartridge Mazdoor in the collieries mentioned in the schedule to the order of reference under Barkakana Area of M/s. Central Coalfields Ltd. for the long many years. They have stated that the job of Clay Cartridge making is of a permanent nature and it is an essential nature of job for running the coal industry because of the fact that the Clay Cartridges are used for blasting of coal. Therefore, this job is directly connected with the production of coal. The concerned workmen used to make clay cartridges within the premises of their respective collieries and the materials required for the purpose of preparing clay cartridges used to be provided by the management. However, the concerned workmen are not getting wages of Cat. I Mazdoor and they used to get payment on piece rate basis and the rate of payment is very poor. In almost all the Collieries under the Coal India Ltd., the Clay Cartridge Mazdoors have been regularised and they are getting wages of Cat. I. The management of Barkakana area has been making this discrimination by not treating them as their workman and not paying wages of Cat. I. The demand of the concerned workmen is that they are entitled to get treated as employees of M/s. CCL and

they are entitled to get Cat. I wages from the date of their doing the job of Clay Cartridge Mazdoor. It has been stated further that the concerned workmen made their above referred demand before the management but the same was not considered by the management and thereafter an industrial dispute was raised before the ALC(C) which ultimately resulted reference to this Tribunal for adjudication. It has been prayed on behalf of the workman to pass an Award in favour of the workmen directing the management to treat the concerned workmen as the workmen of M/s. CCL and to pay Cat. I wages to the concerned workmen from the date of doing their job as Clay Cartridge Mazdoors.

4. In the Writer Statement management have submitted that there is no valid industrial dispute in the present case either in the eye of law or within the meaning of Sec. 2(k) of the I. D. Act, 1947 and at no time employer-employee relationships existed between the persons referred to in the reference order and this management. It has been submitted that the present industrial dispute was not raised by any trade union before the Asstt. Labour Commissioner (Central) Ranchi but it was raised by one Ranchandia Ram and he had no locus standi in this matter. It has been alleged that the ALC(C) Ranchi should not have treated the matter as an Industrial dispute and started conciliation proceedings. It has been stated that the present Central Coalfields Ltd. was previously known as National Coal Development Corporation Ltd. and the name of the former came into existence in place of the latter w.e.t. 1-11-1975 following the re-organisation of the Coal Industry in the Central Public Sector and the establishment of Coal India Ltd. as a holding Company with several subsidiaries companies like the Central Coalfields Ltd., Bharat Coking Coal Ltd., Eastern Coalfields Ltd., Western Coalfields Ltd. etc. The erstwhile National Coal Development Corporation Ltd., and the present Central Coalfields Ltd., are wholly financed by the Central Govt. and are Govt. Companies within the meaning of Section 617 of the Companies Act. It has been submitted that the Central Coalfields Ltd., is engaged in Coal Mining operations and its mining activities are confined to the State of Bihar (Presently Jharkhand) in the Districts of Hazaribagh, Ranchi Giridih, Bokaro and Palamau, having its head office at Ranchi. For effective administration and control, the Company established Areas consisting of group of collieries located within a specified geographic territory and other connected establishments and each Area is headed by a General Manager. In the W. S. management have narrated which collieries function under which area and they have mentioned their names in the W. S. It has been submitted that the demand of the concerned persons are totally fake and the same represent a deliberate and fraudulent attempt to induce some outsiders in the employment of this Company.

It has been further stated by the management that it is necessary to use clay cartridges (usually called in local

parlance as "Gora Matti") for the purpose of blasting in the under ground coal mines (except pick mining) and also for the safety reasons the clay cartridges are used. It has been stated that in the coal mining area the manufacture of clay cartridges is a cottage industry in which villagers and their family members get engaged and they maintain their living by manufacturing and selling the same. The Mine owners purchase the clay cartridges from the manufacturers. In fact there is relationship of purchaser and supplier between the management and the concerned persons and the supplier cannot claim to be the workmen of the purchaser.

So far as Bhurkunda Colliery is concerned one Smt. Lal Moni Kamin used to supply the clay cartridges. Earlier one Haricharan Pandit was also supplying this item but he is dead. Considering the underground Mining Operation and the standard of requirement of clay cartridges a maximum of two persons can manufacture and supply the entire requirement of clay cartridges of this colliery. In Saunda 'D' Colliery S/Sri Ram Lal, R. S. Mishra, Chandru Oraon, Indra Deo Ram and Sio Dayal besides Smt. Kushmi Devi used to supply the clay cartridges. With regard to Central Saunda Colliery only Sri Shamsuddin Ansari and Smt. Shanti Devi used to supply the entire requirement of clay cartridges. It has been further stated that previously the persons supplying gola matt used to be paid @ Rs. 15-per 1000 supply of clay cartridges and subsequently the rate was enhanced to Rs. 20 per 1000 clay cartridges. The management in case of requirement used to make recruitment through the employment Exchanges as per the Employment Exchanges Compulsory Notification of Vacant Act and this enactment cannot be by-passed. It has been prayed on behalf of the employers that an Award may be passed in their favour rejecting the claim of the concerned workmen.

5. Both the sides have filed their respective rejoinders admitting and denying the contents of paras of each other's W. S.

6. Ld. Counsel for the workmen argued that the above reference case is relating to the treating of 133 Clay Cartridges Mazdoor as the workmen of respective colliery of M/s. CCL and paying them Cat. I wages. As per schedule of reference the number of concerned workmen colliery-wise is Saunda 'D' Colliery—41 workmen, Bhurkunda Colliery 27 workmen, Central Saunda Colliery—38 workmen and Sunda Colliery—27 workmen and they are jobless. They were working on permanent nature of job. The job of clay cartridge mazdoor is a vital one and directly connected with production being a job of permanent nature and as such the nomenclature "Clay Cartridge Mazdoor" finds its place in the book relating to job Nomenclature, job description etc. for coal industry and the wages of the respective category has also been provided in various N.C.W. As applicable in the coal industry. The management

of respective collieries named in the order of reference with a view to smooth running of the colliery, provide necessary materials like soil, water, Jhora, Kudal etc. within the colliery premises and supervise the entire process of clay cartridge making effectively and diligently. The claim of the concerned workmen is fully justified and they are entitled to be treated as the workmen of M/s. Central Coalfields Ltd. as Clay Cartridge Mazdoors and they are also entitled to get Cat. I wages. He also submitted that the management has examined MW-1 and has exhibited Ext. M-7. M-1 in the last para of his cross-examination has admitted that he has not produced the documents on the basis of which he has prepared Ext. M-7, and as such Ext. M-7 is without any basis and cannot be considered as genuine document. The management of Saunda 'D' Colliery has stopped the services of 41 workmen from 16-9-2000. He also argued that Shri Ram Chandra Ram has raised this dispute and the said Ram Chandra Ram is one of the workmen in the said list of Sunda 'D' Colliery and after raising the dispute has been stopped illegally by the management. He argued that attendance registers are repaired and maintained by Gang Heads with a view to see that such workmen is properly paid as per his attendance and certain registers have been filed as specimen to show that the concerned workmen are regular in their work and have worked for 240 days or more in a year. Ext. W-1 to W-1/7 are the attendance registers of Saunda 'D' Colliery, Ext. W-3 to W-3/4 are the attendance registers of Central Saunda Colliery Ext. W-6 to W-6/1 are the attendance registers of Saunda Colliery, and Ext. W-7/1 is the attendance register of Bhurkunda Colliery. From perusal of Ext. W-2, W-4, W-5, W-7 and W-8 it appears that the bill has been prepared/supply order has been made in the name of Gang Heads and on perusal of the evidence of workmen witnesses it is clear that the same has been distributed among the concerned workmen of respective gangs. Accordingly they have prayed regularisation of their services as Cat. I Mazdoor.

7. Ld. Counsel for the management argued that WW-1 in course of his evidence in cross-examination admitted that the Attendance Register marked as Ext. W-1 has been prepared by him. He has also further admitted that Ext. W-1 does not bear the signature or I.T.I. of any of the concerned workmen and that in those attendance registers there is no signature of Asstt. Manager overman who were supervising their works. WW-1 has further admitted that the attendance registers marked as Ext. W-1 has been prepared in 2000 after reference of the present case. Therefore, it is clear that the union has manufactured these documents in order to show that they supplied clay cartridges as per order of the Company and the company used to make payment to the suppliers of clay cartridges. Therefore, it is clear that there is no relationship of employer and employee rather the witness who has claimed himself to be a workman is actually a supplier of clay cartridge and a supplier cannot be treated as an employee. WW-2 Shanti

Devi in her cross-examination has admitted that she has no receipt to show that she has made payment to the workmen whose name find place in the attendance register. She has also admitted that she is a supplier and that she has a control over their workmen. She has also admitted during cross-examination that whenever any person remained absent they informed her and she used to grant leave. WW-3 Ram Chandra Ram who claimed to be a mate has stated in his cross-examination that the management has not given any paper appointing him as Mate for manufacture of clay cartridge. He has also admitted in his cross-examination that initially his father used to supply clay cartridge and from 1988 he is supplying the clay cartridge. Therefore, it has been clearly established that he adopted the business of his father for manufacturing clay cartridge and supplying the same to the management @ Rs. 30/- per thousand. The union has not produced a bit of paper to show that they were legally appointed at any point of time by the management for manufacturing of clay cartridge. It has been argued that the claim of the concerned workmen cannot be accepted and they are not entitled to get any relief.

8. Ld. Counsel for the workmen has referred Ref. No. 105/70, Ref. No. 3/80 and also 2/80 regarding reference for regularisation of clay cartridge makers in different collieries by the management. In this respect Ld. Counsel for the management argued that whole evidence of the above Reference cases is not before this Tribunal so it cannot be assessed how the Tribunal has passed such Awards in such References. There is weight in the argument of the Ld. Counsel for the management because before this Tribunal there is no evidence on the basis of which above Awards have been passed in favour of the workmen concerned.

9. Ld. Counsel for the management also referred to a decision reported in 2006(2) ILJR Supreme Court-282 in which Hon'ble Supreme Court laid down the following :-

"Service Law - Appointments - No employment is envisaged outside the constitutional scheme and without following the requirements set down therein-equality of opportunity is the hall mark-provisions exist for affirmative action to ensure that unequals are not treated equals though the Government is not precluded from making temporary appointments, regular appointments must be the rule-constitutional scheme of public employment flows from Articles 14, 16, 315, 320 and 335- in absence of any right to a post or to a particular status, appointment cannot be deemed to be valid-directions for re-engagement of such persons in any other work would make judicial process another mode of recruitment de hors the rules.

Service Law - Appointment-equality-rule of equality in public appointments is a basic constitutional

feature-unless appointment is in terms of relevant rules and after a proper completion, same would not confer any right on the appointees-contractual appointments ends with the contract-daily wages or casual appointment ends with discontinuation-temporary appointee cannot claim permanency on expiry of the term by merely working for a long time one does not acquire a right for regularisation-such persons cannot invoke doctrine of legitimate expectation.

Service Law --Pay-equal pay for equal work-while accepting employment, daily wages or casual or temporary, person concerned knows the nature of his employment and wages to be paid-daily wages form a class by them selves-they cannot claim discrimination with regular employees-even by invoking the principle of equal pay for equal work they cannot be treated at par with regular employees-Articles 14 and 16 not attracted.

Constitution of India-Article 21-Regularisation Regularisation of persons engaged de hors the rules in the guise of upholding rights u/Art. 21-also daily wages having accepted the employment on their own volition cannot be termed forced labour and it does not breach Art. 23-right to life does not include right to employment."

10. As per evidence produced by the workmen side it shows that they are suppliers of Clay cartridges to the management and suppliers cannot be the employees of the management. No appointment letter has been shown and payment sheet has been produced regarding working with the management and it has also been stated by WW-2 Shanti Devi that they have no receipt to show that they made payment to the workmen whose names find place in the Attendance Register. This has been accepted clearly by WW-3, WW-2 and also WW-1 and it also shows that Attendance Register has been prepared after the reference has been made as per statement of WW-1 who has said attendance register has been prepared after reference was made. It only shows that these attendance Registers have been manufactured to get the benefit for regularisation of the concerned workmen by the management. I find no merit in the claim of the concerned workmen. Accordingly, the following Award is rendered :

"The demands of the workmen of Sayat 'D' Colliery, Bhurkunda Colliery, Central Saunda Colliery and Saunda Colliery of Barakakana Area of M/s. Central Coalfields Ltd., Distt. Hazaribagh that the management should treat the concerned workmen as Clay Cartridge Mazdoors (as detailed in Annexure) as their workmen and that they should be paid Category-I wages is not justified. Consequently, the concerned workmen are not entitled to get any relief."

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का. आ. 3237.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या 1, धनबाद के पंचाट (संदर्भ संख्या 69/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/508/98-आई आर (सी-1)]
स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3237.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/1999) of the Central Government Industrial Tribunal/Labour Court No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 5-11-2008.

[No. L-20012/508/98-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

Present : Shri H.M. SINGH, Presiding Officer

In the matter of an Industrial Dispute under Section 10
(1)(d) of the I.D. Act, 1947.

Reference No. 69 of 1999

Parties: Employers in relation to the Management of
Govindpur Area of M/s. BCCL and their workman.

Appearances:

On behalf of the workman : None

On behalf of the employers : None

State: Jharkhand

Industry: Coal

Dated, Dhanbad, the 21st October, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/508/98-I.R. (C-1), dated, the 28th April, 1999.

SCHEDULE

" Whether the action of the management not to regularise Sri Ram Dhani Bhatia as a Clerical Gr.II is genuine and justified ? If not, to what relief is the concerned workman is entitled ? "

2. In this case both the parties involved in the dispute have failed to appear before this Tribunal inspite of issuance of repeated notices to them. It, therefore, appears that they are not interested to proceed with the hearing of the case. This Tribunal also finds no ground to drag on the case suo motu for days together. Under such circumstances, a 'No Dispute' Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का. आ. 3238.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी. सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या 1, धनबाद के पंचाट (संदर्भ संख्या 66/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/248/95-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3238.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 66/1996) of the Central Government Industrial Tribunal/Labour Court No.-1, Dhanbad, now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s BCCL and their workman, which was received by the Central Government on 5-11-2008.

[No. L-20012/248/95-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

Shri H.M. SINGH, Presiding Officer

In the matter of an Industrial Dispute under Section 10
(1)(d) of the I.D. Act, 1947.

Reference No. 66 of 1996

Parties: Employers in relation to the management of
Kustore Area of M/s. BCCL and their workman.

APPEARANCE

On behalf of the workman : None

On behalf of the employers : Mr. S.N. Sinha, Advocate.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 21st October, 2008

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/(248)/95-IR (Coal-I), dated, the 3rd September, 1996.

SCHEDULE

"Whether the action of the General Manager, Kustore Area of M/s. BCCL in dismissing the services of Shri Shantimoy Karmakar M/Loader of Ena Colliery w.e.f. 15-4-1989 is justified? If not, to what relief is the concerned workman entitled?"

2. In this case neither the concerned workman nor his representative appeared before this Tribunal. Management side however, made appearance through their authorised representative. It appears from the record that repeated notices were issued to the workman side but in spite of issuance of notice they failed to turn up before this Tribunal. It therefore, appears that the workman side is not interested to proceed with the hearing of this case. Under such circumstances a 'No dispute' Award is passed in this case presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का. आ. 3239.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार में, बी. सी. सी. एल. के प्रबंधकों के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या नं. 1, धनबाद के पंचाट (संदर्भ संख्या 90/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/692/97-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3239.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 90/1999) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 5-11-2008.

[No. L-20012/692/97-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

Present: Shri H. M. Singh, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947

Reference No. 90 of 1998

Parties : Employers in relation to the management of M/s. BCCL and their workman.

APPEARANCES

On behalf of the workman : None

On behalf of the employers : Mr. U. N. Lal,
Advocate.

State : Jharkhand

Industry : Coal.

Dated, Dhanbad, the 20th October, 2008

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/692/97-I.R. (C-I), dated, the 10th September, 1998.

SCHEDULE

"Whether the action of the management of Kusunda Area of BCCL in dis-allowing Sri Nanka Bhuiya, Gen. Mazdoor to join after his transfer from H. Q. is legal and justified? If not, to what relief the workman is entitled?"

2. In this case neither the concerned workman nor his representative appeared before this Tribunal. Management side however, made appearance through their authorised representative. It appears from the record that Regd. notices were issued to the workman/sponsoring union but in spite of issuance of notices they failed to appear before this Tribunal. It therefore appears that they are not interested to proceed with the hearing of this case. Under such circumstances, this Tribunal finds no ground to adjourn the case suo moto for days together. Accordingly a 'No dispute' Award is passed in this reference presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का. आ. 3240.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार में, बी. सी. सी. एल. के प्रबंधकों के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या नं. 1, धनबाद के पंचाट (संदर्भ संख्या 73/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/515/98-आई आर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3240.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 73/1999) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 5-11-2008.

[No. L-20012/515/98-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD****Present :** Shri H. M. Singh, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I. D. Act., 1947

Reference No. 73 of 1999**Parties :** Employers in relation to the management of Kustore Kshetra of M/s. BCCL and their workman.**APPEARANCES**

On behalf of the workman : None

On behalf of the employers : Mr. H. Nath,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 20th October, 2008

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/515/98-I.R. (C-1), dated, the 29th April, 1999.

SCHEDULE

"Kya B.C.C.L Kustore Kshetra key Prabandhantra dwara dinank 12-4-96 sey Shri Vojohari Gora in ko Barkhast kiya jana Vidhivat evam naya sangat hain? Yadi nahi to karmkar kis rahat key patra hain?"

2. In this case neither the concerned workman nor his representative appeared before this Tribunal. None also appeared on behalf of the management. It appears from record that notices were sent to the workman but in spite of issuance of notices they failed to turn up before this Tribunal. Therefore, there is reason to believe that the concerned workman is not interested to proceed with the hearing of this case. Under such circumstances, a 'No dispute' Award is passed in this case presuming non-existence of any industrial dispute between the parties.

H. M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का. आ. 3241.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने बी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय संख्या नं. 1, धनबाद के पंचाद (संदर्भ संख्या 54/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[सं. एल-20012/259/97-आई आर (सी. 1)]

स्नेह लता जावास, डेस्क अधिकारी

New Delhi, the 5th November, 2008

S.O. 3241.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 54/2000) of the Central Government Industrial Tribunal/Labour Court, No. 1, Dhanbad now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman, which was received by the Central Government on 5-11-2008.

[No. L-20012/259/97-IR(C-1)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD****Present :** Shri H. M. Singh, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I. D. Act., 1947

Reference No. 54 of 2000**Parties :** Employers in relation to the management of Block II Area of M/s. BCCL and their workman.**APPEARANCES**On behalf of the workman : Mr. S. C. Gaur,
Advocate.On behalf of the employers : Mr. S. N. Sinha,
Advocate.

State : Jharkhand Industry : Coal.

Dated, Dhanbad, the 24th October, 2008

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/259/97-I.R. (C-1), dated, the 21st January, 2000

SCHEDULE

"Kya B.C.C.L Block II kshetra key Prabandhantra dwara Sarvochcha Chikitsa Board ko sitarish ko

undekha karney huye Shri Kamal Kant Tiwary Kamkar ko dinank 6.4.97 sey seva nivriti kiya jana vidhiyat uchit evam nayasangata hain ? Yudi nahj to Kamkar kis rahat key patra hain ?"

2. In the W. S. submitted on behalf of the concerned workman it has been stated that the concerned workman was originally appointed at Phularitand Colliery of the erstwhile owners and his age was recorded in Form B register as 9-4-1946 and C.M.P.F. A/c. No. C 222448 showing date of appointment prior to nationalisation as 15-1-1973. The concerned workman passed Mining Sirdarship examination in the year 1959 and date of birth is recorded therein as 14-4-1935. The concerned workman also passed Overmanship examination in the year 1960 and as supplied by the Management to the Directorate General of Mines Safety (Deptt. of Mines) date of birth in the Statutory Certificate is recorded as 6-4-1937. The management of BCCCL issued I.D. Card to the concerned workman in the year 1975 giving full service particulars showing date of birth as 2-4-1946. It has been further stated that the date of birth of the concerned workman was recorded as 2-4-46 in all the statutory records of the company including Form B register and C.M.P.F. records which was carried over upto 1975 at the time of issue of I.D. Card to the concerned workman. The concerned workman was also issued Service Excerpts or nominee form giving service particulars including date of birth as 14-4-1935 to which the concerned workman protested against the wrong entry of date of birth entered on its body and the concerned workman was under impression that the management rectified the wrong records of date of birth and superannuation will be on 2-4-1996, after attaining 60 years of the age of superannuation. Thereafter the concerned workman was transferred to Benedih O.C.P. from Phularitand Colliery and the management of Benedih O.C.P. issued a notice of superannuation on 7-12-1994 informing the concerned workman that he will stand superannuated from 15-4-95. On receipt of the notice of superannuation the concerned workman protested and requested the management to allow him immediately to join duty as his superannuation is on 2-4-2006 and not on 15-4-1995. The employers rectified their own mistake and after withdrawing the letter of superannuation decided to refer the concerned workman to the Apex Medical Board of the Company under 1-1-76 of 1988 of JBCCI. Thereafter on 26-1-95 the management of Benedih O.C.P. Colliery directed the concerned workman to appear before the Apex Medical Board of the company on 27-1-95 at 9.30 A.M. for fresh assessment of age and accordingly the concerned workman appeared before the Apex Medical Board of the Company on the appointed date, time and place and Medical examination for fresh age assessment was held as per medical jurisprudence. The Medical Board assessed the age of the concerned workman as 55 years on 27-1-1995 i.e. to be superannuated on 27-1-2002. It has been stated that the Medical report of the concerned workman was not sent to Benedih Colliery Management and arbitrarily decision was taken to retire him on 6-4-1997 and accordingly a fresh notice of superannuation was issued on 11-14-3-1997 directing the concerned workman

to be superannuated w.e.f. 6-4-1997. The concerned workman after exhausting all avenues raised an industrial dispute which ultimately resulted reference to this Tribunal. It has been further submitted that without considering the report of Apex Medical Board, which assessed the age of the concerned workman as 55 years in the year 1995 Management blatantly violated the guidelines of JBCCI i.e. 1-1-76 and retired the concerned workman arbitrarily which is not only illegal but also against the provisions of clause 13.3 of NCWA and the workman concerned is entitled to be in employment till 27-1-2002, and prayer has been made on behalf of the workman to pass an Award in favour of the workman holding the action of the management of Benedih OCP of M.s. BCCCL as improper, illegal and unjustified.

3. In the W.S. submitted on behalf of the management it has been stated that the present reference is not legally maintainable. The concerned person Sri Kamal Kant Tiwary was not a workman as he was performing the supervisory duties drawing wages more than Rs. 1600 per month and the present reference was made after his superannuation. Therefore, the reference is liable to be summarily rejected on the ground that it is not an industrial dispute. The date of birth of Sri K. K. Tiwary has been recorded as 14-4-1935 in the Form B Register and other documents of the company. His date of appointment had also been indicated as 15-1-73. In the year 1995 Sri Tiwari represented before the management that his date of birth was 6-4-1937 as per his matriculation certificate and the date of birth recorded in the Form B register should be corrected as 6-4-37. On the basis of his demand a settlement in Form II was entered into between the management and Sri K. K. Tiwari, the concerned person on 30-3-95 and as per the terms of settlement his date of birth was corrected as 6-4-37. It has been further stated that copies of the settlement were forwarded to the Government authorities as per the provisions of Rule 58 of the I.D. (Central) Rules, 1957. Thus the date of birth had already been corrected as per the JBCCI Circular No. 76 on the basis of the matriculation certificate produced by him. It has been submitted that the sponsoring union misleading the concerned person raised an industrial dispute before the ALC (Central). Dismissed after his superannuation. The Central Government examined the issue and by notification No.L-20012 259.97-IR (C-1) dated 28-5-98 rejected the demand of the sponsoring union for making reference for adjudication. It has been submitted that the settlement was arrived at keeping in view of the date of birth recorded in the matriculation certificate, the Form B Register and the Overman's certificate and Mining Sirdar's certificate and age assessment made by the Medical Board. As the settlement is binding upon both the parties, no reference can be made after superannuation of Sri K.K. Tiwari. Accordingly it has been prayed that an Award be passed in favour of the management rejecting the claim of the concerned workman.

4. Both sides have filed rejoinder admitting and denying the contents of some of the paras of each others written statement.

5. Argument advanced on behalf of the workman is that in the Form B Register maintained at Phularitand Colliery the date of appointment of the concerned workman is shown as 15-1-1973 and the date of birth of the concerned workman is recorded therein as 9-4-46 and the same is also reflected in the I.D. Card register and those registers were called for from the management but the management neither produced the said registers before this Tribunal nor has submitted any explanation for non-production of those documents. It has been further argued that report of the Apex Medical Board which was held on 27-1-95 in respect of the concerned workman also was for called for but it has not been filed. It is obligatory on the part of the management to inform the result of the Medical Board to the concerned workman and the management has illegally, and arbitrarily retired the concerned workman on 4-4-97 without any basis. This act on the part of the management is unjustified. In this respect the management representative argued that the concerned workman admitted in his examination-in-chief that his date of birth in Mining Sirdarship Certificate was recorded as 11-11-1933 and also in Overmanship examination certificate as 14-4-35. He also argued that concerned workman admitted in his cross-examination that he passed Matric in the year 1963 and Form B Register was signed by him as per direction of the management. First petition regarding age dispute was filed by him in the year 1994. The workman was employed in 1973. After 21 years of service he raised the dispute about the age and date of birth which is as per decision of the Hon'ble Supreme Court that after so long time at the verge of retirement age dispute for the raising the employment should be discouraged. Moreover the workman is a literate person. As he has stated that he passed Matriculation examination in 1963 and the Form B Register has been signed by him in which date of birth of the concerned workman has been mentioned as 1933.

6. Ld. Counsel for the management argued that WW-1 stated in his cross-examination that he has done nothing regarding his age from 1973 to 1994. Ext. M-5 which is a Memorandum of Settlement is signed by him and he has accepted his signature. This paper has also been signed by Manager, N.K. Chakravorty. This witness i.e. the concerned workman has stated in his cross-examination that he is not aware of the contents of the Memorandum of Settlement marked as Ext. M-5 which shows that he wants to tell the fact that he is illiterate person through the Ext. M-5 has been signed by him and the official of the Manager N.K. Chakravorty and Suraj Singh and Bageswar Singh was the Witnesses and they put their signature on the settlement. On the basis of this settlement Ext. M-5 he has been retired from his service as he has accepted in his cross-examination in which his date of birth has been mentioned as 6-4-37. As regards the result of Medical Board for communication to the concerned workman is concerned management has produced Ext. M-4 which shows that this has been written by the General Manager to the Personnel Manager regarding age of the concerned workman which has been held by Apex Medical Board on 27-1-95 and date of birth

"6-4-37" has been taken as final though the above medical report has not been given. It does not effect the case of concerned workmen when there is documentary evidence regarding date of birth of the concerned workman the opinion of the Medical Board becomes irrelevant. The settlement marked as Ext. M-5 has been signed by the concerned workman himself; witnesses and official of the management then he cannot ignore it and he cannot deny the same because he is a literate person and the contents of the settlement are within his knowledge.

7. Ld. Counsel for the management has referred to a decision reported in 2008 (118) FLR 472 in which Hon'ble High Court, Calcutta laid down the following:—

"Date of Birth - Correction of - Sought through Writ Petition under Article 226 of the Constitution of India - Petitioner was appointed way back in 1972 - and he did not represent, for all these years, regarding error in his date of birth in service records - Held, no relief could be granted to the petitioner in the Writ petition—Liberty given to the petitioner to approach regular Civil Court - Writ petition dismissed."

Ld. Counsel for the management referred to another decision reported in 2008 (118) FLR 665 in which Hon'ble Delhi High Court laid down the following:—

"Service—Date of Birth of Government Servant—Alteration in—Fundamental Rule 56—Procedure prescribed—Has to be followed for affecting change in facts of instant case procedure prescribed under the Rule was not followed—Direction issued by the Central Administrative Tribunal was only to effect that the competent authority may decide the respondent's representation in this regard—Such an order of the Tribunal cannot be said to be final as Competent Authority was required to decide the matter as per Rules—Tribunal exceeded its jurisdiction in holding that the respondent's date of birth was 8-12-1940 and not 1-4-1940 as recorded—Impugned order of the Tribunal quashed—Writ petition allowed."

8. One more argument has also been advanced on behalf of the management that the present worker is not a workman and his case is not covered under the I.D. Act, 1947. Section 2(s) defines workman and Section 2(iv) states the following:—

"Who being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

Persons getting pay Rs. 1600/- is out of the purview of the I.D. Act but whether the concerned workman was getting pay as Rs. 1600/- per month and he was in supervisory capacity has not been proved by cogent evidence. So argument advanced on behalf of the management in this regard contains no weight.

In view of the facts, circumstances evidence discussed above I find no merit in the claim of the concerned workman. Hence, the following Award is rendered:

"BCCI, Block H Kabeera key prabandhama Anpara Sarvacharya Likhita Board ko sifarish ko un dekha karkey buya Sri Kamal Kant Tiwary Kamkar ko dinaak 6-4-97 sey seva nivarta kiya jana vidhyat uchit evam avasangata hain. Aun kamkar kisi rahat key pato nahi hain."

H.M. SINGH, Presiding Officer

नई दिल्ली, 5 नवम्बर, 2008

का. आ. 3242, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की भाग 17 के अनुसूचन में, केंद्रीय सरकार ने, श्री. सी. एच. गंगुली के अध्यक्षता में संयुक्त नियोजकों और उनके कर्मचारियों के बीच कार्य में निरंतर औद्योगिक विवाद में केंद्रीय सरकार, औद्योगिक अधिनियम प्रम. न्यायालय संख्या में, 1, पंचवार के पैराट (संदर्भ संख्या 283/2000) को प्रकाशित करती है, जो केंद्रीय सरकार को 5-11-2008 को प्राप्त हुआ था।

[Ref. No. 2001/2/76/99 आई आ. (पे. 11)]

स्नेह लता अग्रवाल, डेस्क ऑफिसरी

New Delhi, the 5th November, 2008

S.O. 3242:- In pursuance of Section 17 of the Industrial Disputes Act, 1947 (11 of 1947), the Central Government hereby publishes the Award (Ref. No. 283/2000) of the Central Government Industrial Tribunal Labour Court, No. 1 Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCI, and their workman, which was received by the Central Government on 5-11-2008.

[No. 1/2001/2/76/99-IR(C-1)]

SNEH LATA AGRAWAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT DHANBAD

Present : San H. M. Singh, Presiding Officer

In the matter of an Industrial Dispute under Section 17 of the I. D. Act, 1947

Reference No. 283 of 2000

Parties : 1 Employers in relation to the management of M/s. BCCI's Bhatdih Colliery and their workman.

APPEARANCES

On behalf of the workman :	Mr. S.C. Ganguly, Advocate.
On behalf of the employers :	Mr. R.N. Ganguly, Advocate.
State : Jharkhand	Industry : Coal

Dated, Dhanbad, the 24th October, 2008

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1) (d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. 1-2001/2/76/99-IR(C-1), dated, the 18th August, 1999.

SCHEDULE

"Whether the action of the management of Bhatdih Colliery of M/s. BCCI, in not providing employment under Sec. 10-4-2 of NCWA- IV to the younger son Sri Brij Kishore Bhagat after the death of his father (late) Parshuram Bhagat is justified? If not, to what relief the said dependent of the said workman is entitled?"

2. In the written Statement submitted on behalf of the workman it has been stated that late Parashu Ram Bhagat was employed by the management of Bhatdih Colliery of M/s. BCCI in permanent capacity and he passed away on 17-3-1988 in course of his employment. The elder son of the deceased employee namely Kamal Kishore Bhagat, in pursuance of the provisions of NCWA applied for self employment on 22-5-1998 giving full particulars to the entire satisfaction of the Management. The provision of clause 10-4-02 of NCWA Provides one employment of the dependant of the deceased employee who dies while in service. The management used to tell the dependant claiming employment, that papers are being processed for providing employment. The widow of the deceased employee also used to call every now and then at the office of the employers but the same old story was being repeated that papers have been sent to Area and H. Qrs for approval etc. It has been stated by the workman side that when employment was not communicated the claimant sent an Advocates Notice to the Management in early 1997 but that too was not acknowledged and after exhausting all avenues the dependant, through union raised an I.D. before the ALTC(C), Dhanbad which ultimately resulted reference to this Tribunal for adjudication. It has been further stated that during the course of conciliation proceedings the claimant for employment under clause 10-4-02 of NCWA Sri Kamal Kishore Bhagat, elder son of the deceased employee met with an accident sustaining multiple injuries which resulted his death. Thereafter the claim for employment was substituted by 2nd son who is younger brother of Kamal Kishore, namely Brij Kishore Bhagat and the ALTC(C) accepting the name of Brij Kishore Bhagat sent F.O.C. report to the Ministry. Accordingly Brij Kishore Bhagat son of Late Parshu Ram Bhagat is entitled for employment under clause 10-4-02 of NCWA- IV after 30 days of filing employment papers to the management of Bhatdih Colliery of M/s. BCCI. Accordingly it has been prayed to pass an Award directing the management to provide employment to Brij Kishore Bhagat to save the family of the deceased employee.

3. In the W.S. filed on behalf of the management it has been stated that the aforesaid reference is not legally maintainable and bad in law. It is illegal and violative of the Constitution of India under which the employment in a public sector undertaking cannot be restricted to dependents employees only and debar other citizens of the Country for entry into the service of public Sector undertaking like BCCL. It has been submitted that the instant reference is erroneous and cancelled for the reason that the original dispute was raised by the union before the ALC(C) vide their letter No. VP. NCWC/ID/Employ-10-4-02/97/135 dated 11/20-3-97 wherein employment of one Kamal Kishore Bhagat S/o. Late Parshuram Bhagat was demanded. Hence the reference is liable to be rejected on this ground only. It has been stated that late Parshuram Bhagat was a permanent employee of the management who died while in service on 17-3-88. After his death one Kamal Kishore Bhagat claiming himself to be the son of late Parshuram Bhagat claimed employment under clause 10-4-02 of NCWA-IV. One lady namely Smt. Chapla Bala Devi claiming herself to be the wife of late Parshuram Bhagat also demanded employment in place of her husband. Since there is provision of only one employment to the dependant of deceased employee who died while in service in NCWA-IV it was not possible for the employers to provide employment to both the persons. It is well within the knowledge of the management that two ladies namely Chapla Bala Devi and Champa Devi both claiming to be the wife of late Parshuram Bhagat claimed the gratuity amount of the deceased employee. Therefore, there was serious doubt about the genuineness of persons claiming employment and under such circumstances it was not possible for the employers to decide to whom to offer employment. It has been further stated that the persons concerned kept quiet for long nine years and raised and industrial dispute in the year 1997 whereas the workman died on 17-3-88 and that too for one Sri Kamal Kishore Bhagat and not for the person named in the reference. Therefore, the demand is belated and it has been prayed to pass and Award rejecting the claim of the concerned workman.

4. Both the sides have filed rejoinders admitting and denying some of the paras of each other's W.S.

5. Management side in order to substantiate their case have examined Mr. A.K. Chand, MW-1 who have proved documents marked as Exts. M-1, M-1/1, M-1/2, M-1/3, M-1/4 and M-1/5. On behalf of the workman WW-1 Brij Kishore Bhagat has been examined and he has provided documents marked as Ext. W-1 to W-6.

5. It has been argued on behalf of the workman that after the death of his elder Brother Shri Kamal Kishore Bhagat Brij Kishore Bhagat has been substituted for employment due to death of his father. But the Ld. Counsel for the management has argued that there are three claimants for appointment on compassionate ground. Shri Brij Kishore Bhagat, Smt. Chapala Bala Devi and Champa

Devi both claimed for employment to be the wife and son of late Parshu Ram Bhagat. Moreover, WW-1 Brij Kishore Bhagat in course of his evidence stated to the court that he had not made any application in the prescribed proforma before the management for his employment. MW-1 A.K. Chand has stated that no application was filed on behalf of Brij Kishore Bhagat before the management. It has been stated that Parshu Ram Bhagat's native village was in the district of Siwan whereas the succession Certificate has been obtained from Bokaro. This succession certificate cannot be accepted when Parshuram Bhagat belongs to district Siwan succession certificate cannot be got from Bokaro though Gratuity as per evidence of M-1 was paid to Champa Devi.

6. As per deposition of MW-1 by Ext. M-1/1 Chapala Bala Devi applied for employment. Ext. M-1/2 is the verification roll and by Ext. M-1/3 Chapala Bala Devi has given identification certificate. Ext. M-1/4 is the death certificate of Parshu Ram Bhagat. Ext. M-1 is the succession certificate issued by the Certifying Judge, Dhanbad. Ext. W-1 has been filed with a view to show that Champa Devi has been given gratuity amounting to Rs. 24927.00 of late Parshu Ram Bhagat and for this purpose letter has been issued. In the Service Excerpt the name of Champa Devi as wife, Kamal Kishore Bhagat and Brij Kishore Bhagat as sons have been mentioned. Ext. W-5 is the Certificate issued by B.D.O Siwan wherein it has been stated that Champa Devi is the wife of late Parshuram Bhagat. Ext. W-3 is the application for employment by elder brother Kamal Kishore Bhagat. Ext. W-3/1 is the death Certificate of Parshuram Bhagat. There is also a certificate issued by S.D.M. Siwan wherein Chamap Devi has been shown as wife of Parshu Ram Bhagat and Champa Devi has been given gratuity fund of Late Parshu Ram Bhagat.

7. Now there is genuine and justified ground for the management to whom employment he given because after the death of Parshu Ram Bhagat his elder son Kamal Kishore Bhagat applied and he died and after that the name of the concerned workman Brij Kishore Bagat has been substituted. But in the meantime Champa Bala Devi and Champa Devi have claimed employment. In the service excerpt of the deceased workman the name of Champa Devi, Kamal Kishore Bhagat and Brij Kishore Bhagat has been mentioned as wife and son. The Provident fund amount also was given to Smt. Champa Devi. So in the circumstances of the case demand of Brij Kishore Bhagat after the death of his father for employment is not justified. Accordingly the following Award is rendered:—

"The action of the management of Bhatdih Colliery of M/s. BCCL in not providing employment under Sec. 10-4-02 of NCWA-IV to the younger son Brij Kishore Bhagat after the death of his father (Late) Parshu Ram Bhagat is justified. Accordingly Brij Kishore Bhagat is not entitled to get any relief."

H.M. SINGH, Presiding Officer

शुद्धि पत्र

नई दिल्ली, 5 नवम्बर, 2008

का.आ. 3243. इस मंत्रालय के अधिसूचना संख्या एल-20012/364/2000-आईआर (सी-1) जो भारत सरकार मुद्रणालय में दिनांक 04-03-2008 को प्रकाशन हेतु भेजा गया था, के आखिरी पैरा के चौथी पंक्ति में "As Security Guard Group 'G' w.e.f. 29-12-1980" के बजाय "As Security Guard Group 'G' w.e.f. 29-12-1989" पढ़ा जाए।

[सं. एल-20012/364/2000-आईआर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

CORRIGENDUM

New Delhi, the 5th November, 2008

S.O. 3243. —In terms of the Award notified vide notification of even number dated 04-03-2008, in the fourth line of the concluding of the award (in the last page) should be read as "As Security Guard Group 'G' w.e.f. 29-12-1989" instead of "As Security Guard Group 'G' w.e.f. 29-12-1980."

[No.L-20012/364/2000-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

शुद्धि पत्र

नई दिल्ली, 7 नवम्बर, 2008

का.आ. 3244. इस मंत्रालय के अधिसूचना संख्या एल-20012/591/2000-आईआर (सी-1) जो भारत सरकार मुद्रणालय में दिनांक 08-07-2008 को प्रकाशन हेतु भेजा गया था, के पंचम शीर्षक के ऊपर "Dated, Dhanbad, the 16th June 2001" के बजाय "Dated, Dhanbad, the 16th June 2008" पढ़ा जाए।

[सं. एल-20012/591/2000-आईआर (सी-1)]

स्नेह लता जवास, डेस्क अधिकारी

CORRIGENDUM

New Delhi, the 7th November, 2008

S.O. 3244. —In terms of the Award notified vide notification of even number dated 08-07-2008, above the title AWARD should be read as "Dated, Dhanbad, the 16th June 2008" instead of "Dated, Dhanbad, the 16th June 2001."

[No.L-20012/591/2000-IR (C-1)]

SNEH LATA JAWAS, Desk Officer

नई दिल्ली, 10 नवम्बर, 2008

का. आ. 3245. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्क्यू. सी.एल. के प्रबंधन के संबंध निराजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ सं. 198/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-11-2008 को प्राप्त हुआ था :

[सं. एल-22012/237/2001-आईआर (सी-11)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th November, 2008

S.O. 3245.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.198/2002) of the Central Government Industrial Tribunal-cum-Labour Court, NAGPUR as shown in the Annexure, in the Industrial Dispute between the management of Ballarpur Colliery 3 & 4 pits of WCL, and their workmen, received by the Central Government on 10-11-2008

[No. L-22012/237/2001-IR(CM-11)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE SHRI A.N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. CGIT/NGP/75/03

Date: 23-10-2008

Petitioner/
Party No. 1 : The General Secretary,
UCO Bank Employees' Association,
Kanchan Prabha, 48, Tatya
Topenagar, Nagpur-15

On behalf of Shri Jagdish Chandra
Shukla

Versus

Respondent/
Party No. 2 : The Divisional Manager,
UCO Bank, 108 Sushil Bhawan,
Bahraj Marg, Dhantoli, Nagpur-12

AWARD

(Dated: 23rd October, 2008)

1. The Central Government after satisfying the existence of dispute between the General Secretary, UCO Bank Employees' Association, Kanchan Prabha, 48, Tatya Topenagar, Nagpur-15 on behalf of Shri Jagdish Chandra Shukla (Party No.1) and the Divisional Manager, UCO Bank, 108 Sushil Bhawan, Bahraj Marg, Dhantoli, Nagpur-12 (Party No.2) referred the same for adjudication to this Tribunal vide its letter No. L-12012/345/98-IR(C-11) dated 20-01-1993 under clause (d) of sub section (11) and sub section (2A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947) with the following schedule.

2. "Whether the action of the management of UCO Bank, Nagpur for awarding punishment of stopping two increments permanently in respect of Shri Jagdish Chandra Shukla, Clerk-cum-Steno Typist is proper and justified? If not, what relief the workman is entitled to?"

3. On the perusal of record, it indicates that initially the reference was made to the CGIT, Jabalpur where it was registered as a reference Case No. 26/2003 UCO Bank Employees Association as a Party No.1 Divisional Manager, UCO Bank, Nagpur is a Respondent. Consequent upon the establishment of CGIT at Nagpur, the case came to be transferred to it and here it has been registered as Case No. CGIT/NGP/75/2003. Here as a routine the notices were issued to both the parties on 30-6-2005. In response to the notices, both the parties appeared on 14-9-2005. Practically nobody is taking interest in the present case

and the record does not show even the active appearance of the Petitioner. No doubt, the Rojnama dt. 8-5-2006 shows that the Petitioner was present and nobody was appeared for the management. But the earlier proceeding taken place before the CGIT, Jabalpur shows that Adv. Kumbhalkar, representative of the Management was present and workman was also present. Latter on the post of Presiding Officer was vacant and the file was kept undated. On 11-3-1997, an application has been filed by the management to close the case. He has also filed pursis alongwith this application wherein the Petitioner Dy. General Secretary who has filed the case informing that the Petitioner is not interested as he has resigned from the post and he doesn't want to continue the case. He has prayed to dispose of the matter. Since the post of Presiding Officer was vacant, the further order was not passed and as a routine, the case was transferred to this Tribunal. Here also at CGIT, Nagpur, the notices were issued as usual on transfer of the case.

Whatever it may be, it seems that the Petitioner has resigned from the Bank, the Union who has represented and filed a case of the Petitioner has submitted a pursis, there are no reasons to proceed further. Hence, no dispute award is passed. The reference stands as dismissed as to no order of the cost.

Date: 23-10-2008 A.N. YADAV, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2008

का. आ. 3246.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 चण्डीगढ़ के पंचाट (संदर्भ सं. 95/1993/97/1993 & 159/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-2008 को प्राप्त हुआ था।

[सं. एल-22012/179/एफ/1993-आई आर (सी-11),

[सं. एल-22012/176/1993-आई आर (सी-11),

[सं. एल-22012/272/1994-आई आर (सी-11)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 11th November, 2008

S.O. 3246.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.95/1993, 97/1993, 159/1994) of the Central Government Industrial Tribunal-cum-Labour Court, No.1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 11-11-2008.

[No. L-22012/179/F/1993-IR(C-II),

No. L-22012/176/1993-IR(C-II),

No. L-22012/272/1994-IR(C-III)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH

Case No. I.Ds.159/1994, 97/1993, 95/1993

I.D. No.95/1993 of Sh. Mahesh Chander.

I.D. No.97/1993 of Sh. Yash Pal.

I.D.No.159/1994 of Sh. Ram Pal,

.....Applicants

Versus

1. The District Manager, Food Corporation of India,
Punjab National Bank Building, Sector 17,
Chandigarh

2. Senior Regional Manager, Food Corporation of India,
Sector 31, Chandigarh.

.....Respondents

APPEARANCES

For the workman : None

For the management : N.K. Zakhmi.

AWARD

Passed on :- 4-11-08

Government of India referred the following industrial disputes namely I.D. No.95/1993 Mahesh Chander vs. Food Corporation of India, Reference No.L-22012/179/F/93-IR(C-II) dated 2-9-93, ID No. 97/1993 Yashpal Vs. Food Corporation of India, Reference No. L-22012/176/93-IR(C-II) dated 2-9-93 and I.D. No.159/1994 Sh. Ram Pal Vs. Food Corporation of India Reference No.L-22012/272-1994-IR(C-II) dated 15-11-1994 for adjudication of the references by this Tribunal.

In all the references, common question of law and facts are involved, and accordingly, all the references are hereby disposed of by a single common award. ID. 95/1993, Sh. Mahesh Chander Vs. Food Corporation of India shall be the leading file and a copy of this award shall be placed in ID. No. 97/1993 and ID. No. 159/1994.

The main question for adjudication in all these references is whether the termination of every workman by the management is legal and justified? If not, to what relief the workmen are entitled? The controversy between the management and workmen is apparent from the pleadings of parties in respective files that every workman was appointed by the management on daily waged basis as casual labourer for working in Food Corporation of India. Every workman has completed 240 days proceeding to the date of his termination, but the services of the workmen were terminated by different orders by the management of respondent without applying with the mandatory provisions of Industrial Disputes Act

regarding issuance of notice and payment of retrenchment compensation. It has also been claimed by every workman that juniors to him have been retained on roll and in spite of permanent vacancies lying in the department, they were terminated.

On the other hand, the management of respondent has disputed the above mentioned facts by claiming that in compliance of provisions of Industrial Disputes Act, the services of all the workmen were retrenched and one month salary in lieu of notice and retrenchment compensation was ordered to be paid. Every workman refused to receive the cheque and the same was sent to the workman at his residential address provided by him to the department through Registered Post, but the same was not received by the workmen and the registered letter was received back by the management.

All the parties were afforded the opportunity of being heard. Oral evidence was recorded and relevant documents including the retrenchment compensation order and the cheque in original which is allegedly said to be sent to the workmen were filed.

On perusal of the materials on record, I am mentioning the relevant date in each of the file as follows:

In I.D. No. 97/93, the workman claimed that he worked from 5-8-86 to 13-7-88. Management admitted it with the claim that his services were retrenched in compliance of the provisions of Industrial Disputes Act.

In I.D. No. 95/93, the workman claimed to work with the department from 19-12-86 to 17-7-88. This period is admitted by the department with the same plea that his services were retrenched as per the provisions of Industrial Disputes Act.

Likewise, in I.D. 159/94, the workman claimed to work with the department from 7-4-86 to 13-7-88. The management also admitted this period with the information that services of the workman were retrenched as per the provisions of Industrial Disputes Act.

The main question to answer this reference before this Tribunal is whether the services of workmen were retrenched lawfully?

Industrial Dispute Act protects interest of the workman for his termination from the services otherwise than in compliance of the provisions of the Act. If a workman has completed 240 days, this Act put an embargo on the powers of the management to terminate the services of the workman without serving a month notice and retrenchment compensation as prescribed by the Act. It shows that the management has right to terminate the services but subject to the provisions of law. In all these cases, there is no controversy regarding the work done by the workman and the number of working days. It is the claim of the management of respondent that the services of all the workmen were retrenched as per the provisions of law but they refused to receive the payment of one month salary in lieu of one month notice and the retrenchment compensation.

On perusal of all the files, it is evident that in I.D. No. 97/93 regarding Sh. Yashpal, the management passed an order dated 13-7-88 regarding the retrenchment of the services of the workman as his services were no more required and a cheque amounting to Rs.1350 on account of one month salary, in lieu of one month notice and retrenchment compensation was offered to the workman. He refused the same and the same was sent to the workman through Registered Post A.D. The registered letter is on record with the remark 'none such person found'.

In the same way, in I.D. No. 95/93 regarding Sh. Mahesh Chander, management also passed an order dated 17-7-88 retrenching his services on the ground that his services were no more required and a cheque amounting to Rs.1350 on account of one month salary, in lieu of one month notice, and retrenchment compensation was offered to the workman which he refused. On his refusal, this order and the cheque No. 061836 dated 13-7-88 was sent at the registered residential address of the workman which was returned to the management with the endorsement of the postal authority left without address.

Likewise in I. D. No. 159/94, the management passed an order dated 13-7-88 retrenching the services of the workman on the ground that his services were no more required and a cheque of Rs 1687/85 on account of one month salary in lieu of one month notice and retrenchment compensation was offered to the workman. On his refusal, the same was sent to the workman at his residential address through Registered Post AD which was returned to the management with the endorsement of the postal authorities that addressee is not available at his residence.

The circumstances speaks themselves. None of the workman, neither in the statement of claim, replication nor in evidence have mentioned a single sentence about their retrenchment. Even after getting the notice through the written statement not a single sentence was uttered about retrenchment order or retrenchment compensation. The validity and the legality of the retrenchment order and retrenchment compensation has not been challenged by any of the workman. It is only mentioned that no retrenchment compensation was paid, whereas, on perusal of the material on record, it is evident that non-payment of retrenchment compensation was due to the act of workman themselves because they refused to receive the retrenchment order and retrenchment compensation.

I am unable to accept the contention of the workman that vacancies are laying vacant and instead of that they were retrenched, because Food Corporation of India is Government organization and the appointments in the Government organizations against the regular and substantial vacancies can only be made through the rules made by the Government in this regard and a casual labour has no right to post and cannot seek his regularization against the permanent vacancy. He has only right to appear in the prescribed exams along with other contenders, if is otherwise eligible.

All the workmen only have the casual statement regarding juniors to be retained in the service. Neither in

their affidavit nor in cross-examination have they disclosed the name and addresses of the persons who were junior to them and were retained in the service at the time of the retrenchment of these workmen.

Thus, on the basis of above observation, I am of the view that the services of workmen were retrenched in compliance of the provisions of law and their termination from the services was perfectly lawful and valid. On the next part of the reference to what relief, if any, the workmen are entitled, it appeals me that retrenchment compensation has yet not been received by any of the workman to which they are entitled. It is true that non-payment of the retrenchment compensation, as stated earlier, was due to the act of the workman for not receiving the same. But considering the facts and circumstances of the case, I am of the view that the management of Food Corporation of India should pay the retrenchment compensation calculated earlier along with 8% interest thereon from the date of the workmen were retrenched till the date of this Award. Accordingly, for the second part of the reference, to what relief the workmen are entitled, I am of the view that in spite of the termination order being perfectly lawful and valid, the workmen are entitled for the retrenchment compensation calculated by the department along with 8% interest from the date of their termination till the passing of this award. The management is directed to provide every workman retrenchment compensaion as calculated by the management vide order dated 13-7-88 along with 8% interest from 13-8-88 till the dated of this award within a month from the publication of this award. These references are accordingly answered. Central Government be moved accordingly for the publication of award thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2008

का. आ. 3247.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डब्ल्यू.डी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचात (संदर्भ सं. 26/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-2008 को प्राप्त हुआ था।

[सं. एल-42011/17/2006-आई आर (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th November, 2008

S.O. 3247.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 26/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow, as shown in the Annexure, in the

Industrial Dispute between the employers in relation to the management of CPWD and their workman, which was received by the Central Government on 11-11-2008.

[No. L-42011/17/2006-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present: N.K. Purohit

I.D. No. 26/2006

Ref. No. L-42011/17/2006 IR(DU-) dt. 20-9-2006

BETWEEN

Sri A.L. Pandey, President (NR)

All India CPWD (MRM) Karamachari Sangathan,
Income Tax Building, Near Pump House
Mahatma Gandhi Marg, Civil Lines, Allahabad

(In the matter of Sh. Kishori Prasad)

AND

The Executive Engineer,

Allahabad Elect. Divison, CPWD

Sangam Palace, 4th Floor

Civil Lines, Allahabad

AWARD

Date : 04-11-2008

1. By order no. L-42011/17/2006 (IR(DU)) dated 20-9-2006 of the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri A.L. Pandey, Regional President (NR), All India CPWD Karmachari Sangathan, Income Tax Building, MG Marg, Allahabad and the Executive Engineer, Allahabad Elect. Division, CPWD, Allahabad for adjudication.

"Whether the demand of All India CPWD (MRM) Karmachari Sangathan for seeking in situ promotion for Sri Kishori Prasad in the Pay Scale of Rs. 950-1500 (Rs. 3050-4500) w.e.f. 1-4-191, under the management of Executive Engineer, Allahabad Electrical Division CPWD, Sangam Palace, Civil Lines, Allahabad is legal and justified? If yes, to what relief the workman is entitled to?"

2. The union has filed the statement of claim stating therein that the workman Sh. Kishori Prasad was employed

as Khalasi under the Executive Engineer, Allahabad Central Electrical Division, CPWD at Varanasi Electrical Sub Division, CPWD, Varanasi w.e.f. 10-12-1973 for day to day maintenance. The workman was granted IN-SITU Promotion w.e.f. 1-4-91 in the pay scale of Rs.800-1150. This pay scale of Rs.800-1150 is for promotion from unskilled to semi-skilled category at the time of grant of IN-SITU promotion. It is further submitted that office of the Director General of Works, CPWD, New Delhi, while implementing the recommendations of the Arbitration Award 1988, has merged all the assistant categories of artisans with full categories and their pay scales were accordingly modified notionally from 1-1-73. On merging of assistant categories to full categories, the workman is entitled to skilled category's pay scale i.e. Rs.950-1500. It is further submitted that worker has completed more than 24 years of service so he is entitled to second higher pay scale under Assured Career Progression Scheme w.e.f. 9-8-99 in the pay scale of Rs.4000-6000. It is prayed that the management of CPWD be directed to revise the pay scales w.e.f. 1-4-91 to Rs.950-1500 w.e.f. 1-1-96 to Rs.3050-4590 and w.e.f. 9-8-99 of the workman to Rs.4000-6000.

3. In the written statement filed by the Executive Engineer (E) Allahabad Central Elect. Divn. CPWD, Allahabad it is admitted that the workman Kishori Prasad joined the duties on 10-12-73 and pay scale Rs.750-12-070-EB-14-940 was given to him 1-1-86. On 1-4-91 the workman was given IN-SITU promotion and next pay scale was granted i.e. Rs.800-1150, but it is denied that on IN-SITU promotion workman was entitled to pay scale Rs.950-1500. It is further stated that post of Khalasi is unskilled and as per rules under CPWD Vol.3, the workman was granted IN-SITU promotion on 1-4-91 in the scale of Rs.800-1150. To implement the Arbitration Award dated 31-1-08 Assistant category was to be merged with corresponding main category. Since the workman was working as Khalasi at relevant time and the post of the Khalasi is not semi-skilled post and was not to be merged with corresponding main category, he was not entitled for the claimed scale and there is no anomaly. It is also contended that the workman after completion of 24 years of service was entitled to pay scale Rs.2750-4400 w.e.f. 9-8-99 and the same has been given to him vide order dated 1-12-2006. He is not entitled for pay scale Rs.4000-6000 under APC Scheme.

4. In spite of sufficient opportunity given to the workman, he did not turn up for his evidence in support of his claim. After filing statement of claim on 4-12-06, neither the workman nor any representative of the union which raised his dispute, remained present of subsequent dates of hearing and ultimately order to proceed ex-parte against the union was passed on 3-4-07. The management has examined Sh. S.K. Sidhu, Executive Engineer, Electrical in

support of the averments made in the written statement. He has not been cross examined by the union side. In support of its case management filed following documents:—

1. Photo copy of CPWD Manual Vol.III (PN.20/4 & 20/5)
2. Photo copy of office memorandum no. 22/9/93-EC.X dt.7-5-97 (PN 20/6)
3. Photo copy of office memorandum no. 8/1-99-EC.X dt.12-11-05 (PN 20/10)
4. Photo copy of office memorandum no. 10(1)/2006/EKVM/2088 dt.1-12-06 (PN 20/11)

5. Since, none was present on behalf of the union heard the argument advanced by the learned representative of the opposite party Sri G.P. Misra and perused the relevant record.

6. Admittedly, the workman was employed as Khalasi and he was granted IN-SITU promotion w.e.f. 1-4-91 in the pay scale of Rs.800-1150. It is also undisputed that to implement the Arbitration Award 31-1-88, assistant category was to be merged with corresponding main category and the scale of Rs.950-1500 was to be given on such merger. The worker claim himself to be in semi skilled category whereas the contention of the management is that the post of Khalasi falls in unskilled category. Therefore, the worker was not entitled for the scale of Rs.950-1500 as he never worked on semi-skilled category post.

7. Now, the question which however, arises for consideration is as whether the post of Khalasi is semi skilled and falls in artisan or assistant category. In this regard the management witness Sh. S.K. Sidhu, Executive Engineer has stated in his statement that the workman was appointed on the post of Khalasi and still working as Khalasi which is unskilled post of 'Group 1D' category and as per recruitment rules under CPWD manual 3, he was to be given next pay scale of Rs.800-1500 w.e.f. 1-4-91. He has further stated that the workman does not possess any requisite technical qualification so he is not eligible for Asstt. Operation (E&M). Since proceeding against the union is ex-parte, there is no cross examination on above statement of the management witness. Though it is pleaded in the statement of claim that the workman was working as Khalasi which is semi-skilled post as such on merger of assistant category to corresponding main category, he was entitled to skilled category scale i.e. Rs.950-1500 but in support of above contentions neither any oral nor any documentary evidence has been adduced by the workmen side. It was incumbent for the union representing the workman to have appeared and substantiate its aforesaid contention. In absence of any evidence in rebuttal, there is no reason to disbelieve the statement of the management witness Sh. S.K. Sidhu which

also finds support from the CPWD manual Vol.3 and the documents filed by the management side.

8. In view of the above discussion, the union has miserably failed to prove that the post of Khalasi falls in artisan category. Since as per the Arbitration Award only assistant category was to be merged with corresponding main category of skilled worker, the workman claim for scale Rs.950-1500 is not tenable. The demand of the union for seeking IN-SITU promotion for the workman on above scale is neither legal nor justified.

9. Accordingly, the reference is adjudicated against the workman. He is not entitled for IN-SITU promotion in the pay scale of Rs.950-1500 w.e.f. 1-4-1999.

Award as above.

Lucknow

N.K. PUROHIT, Presiding Officer

नई दिल्ली, 11 नवम्बर, 2008

का. आ. 3248.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार नेहरू साइंस सेन्टर के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. II, मुम्बई के पंचाट (संदर्भ सं. सीजीआईटी-2/6 आफ 2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-11-2008 को प्राप्त हुआ था

[सं. एल-42011/50/99-आई आर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th November, 2008

S.O. 3248.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/6 of 2000) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Nehru Science Centre and their workman, which was received by the Central Government on 11-11-2008.

[No. L-42011/50/99-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

PRESENT: A.A. LAD, Presiding Officer

REFERENCE NO. CGIT-2/6 of 2000

Employers in relation to the management of
Nehru Science Centre

The Director,
Nehru Science Centre,
National Council of Science Museum,
Dr. E. Moses Road, Worli,
Mumbai 400018.

First Party

And

Their Workman,
(Smt. S.D. Khot and Shri S.K. Rane)
The General Secretary,
NCSM Employees Union,
17, Dalvi Building, 1st Floor,
Parel, Mumbai 400012.

Second Party

APPEARANCE

For the Employer : Mr. B.G. Goyal, Advocate,

For the Workman : Mr. M.B. Anchan, Advocate

Date of reserving Award: 1st September, 2008

Date of Passing of Award: 30th September, 2008

AWARD-PART II

The matrix of the facts as culled out from the proceedings are as under:

1. The Government of India. Ministry of Labour by its Order No.L-42011/50/99/IR(DU) dated 16th December, 1999 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Nehru Science Centre, Mumbai, by imposing the penalty of compulsory retirement to the workmen, Smt. S.D. Khot, UDC and Sh. S.K. Rane, Technician Gr.II is legal and justified? If not, to what relief the concerned workman are entitled?

2. To substantiate the subject matter made out in the reference 2nd Party jointly filed Statement of Claim at Exhibit 5 stating that, the workmen involved in the reference i.e. Smt. S.D. Khot and Mr S.K. Rane were working with the 1st Party as Upper Division Clerk and as Technician Grade III respectively. The Charge Sheet was served on both. Enquiry Officer was appointed. The enquiry was conducted by Inquiry Officer. The enquiry conducted was not fair and proper and was not conducted by following the principles of natural justice. The documents were not given to chargesheeted employees and copies of the translations were not supplied to the workmen involved in the reference. Even books containing CCS (CCA) Rules and CCS (Conduct) Rules under which the enquiry was conducted were not made available. The enquiry conducted by the Enquiry Officer was not competent to

conduct the enquiry. They were not permitted to take the help of the Counsel and were not permitted to defend their case by proper representation. At the time of the enquiry, these workmen were asked to sit in the Conference Hall, whereas Enquiry Officer was sitting in the Chamber provided to him and was bringing the material typed for signature of the workmen. The Enquiry Officer was interested in helping the Management. He was taking initiative. There was no evidence before the Enquiry Officer to hold these workmen guilty of the charges levelled against them. According to them findings were perverse. So they prayed to quash and set aside the enquiry proceedings and findings of the Enquiry Officer with request to direct the 1st Party to reinstate them on their respective posts since decision taken by the 1st Party was taken on the basis of such a bogus enquiry.

3. This prayer is disputed by the 1st Party by filing written statement at Exhibit 8 stating and contending that, full opportunity was given to the workmen involved in the reference. In fact 1st Party is not an "Industry". It is an autonomous body constituted under the Ministry of Culture, Youth Affairs & Sports, Government of India and is non-profit organization. 1st Party is not engaged in any activity which can be called business, trade or manufacturing to call it as an "Industry". Since 1st Party is not an "Industry" the Workmen involved in the reference cannot be called Workmen.

4. It is further stated that, full opportunity was given to these workmen involved in the reference while conducting enquiry. Time and again they were accommodated by the Enquiry Officer. Still they were determined not to start and participate in the enquiry and after giving long rope, enquiry was proceeded ex-parte and was concluded by the Enquiry Officer. Documents were made available. No question arises to provide documents as pleaded. All the requirements of the workmen were met as per the conditions laid down in Rule 14 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 and it was endorsed by the workmen involved in the reference. The prayer of the workmen to permit them to engage legal assistance was not allowed, since Rule 14 of Central Civil Service Rules does not permit to give such a facility to charge sheeted employees. Shri M.M. Mulani was appointed as a Translator to facilitate the workmen to understand the conducting and recording of the enquiry proceedings. The adjournments sought by these workmen were given by the Enquiry Officer on a number of occasions. Since they were demanding adjournments from time and again after giving full warning such an adjournment was rejected and enquiry was proceeded and concluded ex-parte. According to 1st party full opportunity was given to the charge sheeted employees. However, they did not avail it and participate in the enquiry and extended cooperation to complete the job of enquiry and that, being the position it compelled

the Enquiry Officer to proceed ex-parte. So it proceeded ex-parte and completed the enquiry holding these workmen guilty of the charges levelled against them. Relying on that, the Disciplinary Authority took decision to terminate these employees since the charges were proved which were of serious nature. The charge of giving slogans, abusing Officers and creating hurdles in the working place of the staff were levelled against these workmen. These both charges were related to the functioning of the 1st Party's activities. Those were of serious nature. As it was giving bad impression in the administration of the 1st Party. Since it was a serious thing, decision was taken to voluntarily retire them was the only solution and just and proper. As per that instead of maintaining decision of dismissal it was soften and converted into compulsory retirement. So it is submitted that, the prayer prayed by the workmen in the subject matter of the reference does not deserved to be considered.

5. In view of the above pleadings my Ld. Predecessor framed Issues at Exhibit 11. Out of those, Issues Nos. 1 to 4 were treated as preliminary issues by my Ld. Predecessor. However, when charge of this Tribunal was with CGIT-1, the then Presiding Officer of Central Government Industrial Tribunal Court No.1 by an order dated 17-2-2006, ordered to decide all the issues at a time. However, both parties in the proceedings again requested this Tribunal to consider and decide Issue Nos. 1 to 4 as preliminary Issues. Accordingly Issue Nos. 1 to 4 were taken for decision and were decided by me on 30th August, 2006 holding enquiry not fair and proper and findings perverse. I also observed Issue of "Industry" does not survive as it was not seriously challenged in the proceedings and held this Court has jurisdiction. Said was challenged by the 1st Party by filing Writ Petition No 888 of 2007 and while disposing of the said Writ Petition Hon'ble Bombay High Court remanded this Reference back giving certain directions to this Tribunal including to decide point of "Industry" afresh vis-a-vis point of jurisdiction and give liberty to the parties concerned more precisely to 1st Party to lead evidence and kept open all contentions raised in the Petition in challenging Part I Award for the Petitioners to raise in further proceedings, if the Award disposing of the Part II proceedings is adverse to the Petitioners. The Hon'ble High Court also observed like this :

"The Petitioner is allowed to raise the issue an issue as to whether the Petitioner is an industry as defined under Section 2(i) of the Industrial Disputes Act, 1947 at the stage of Part II proceedings of the award and is also allowed to lead evidence in support thereof. The Tribunal shall decide the said issue, if raised, on merits in accordance with law without being influenced by the observations made in paragraph nine of the impugned order."

6. By the judgment/order referred above the Hon'ble High Court has not disturbed the findings given by this Tribunal on the point of enquiry and findings of it and observations of this Tribunal where it was observed that, enquiry is not fair and proper and finding perverse. So I feel that, I need not discuss the issue of enquiry and findings of it a fresh with issue Nos. 5 and 6 which I answer as follows :

ISSUES	FINDINGS
1. Whether the Nehru Science Centre, Mumbai is "not an industry" as defined under section 2(j) of the Industrial Disputes Act, therefore, the reference is not maintainable ?	No
2. Whether this Tribunal has jurisdiction to entertain and try the reference?	Yes
3. Whether the action of the Management of Nehru Science Centre, Mymbai, by imposing the penalty of compulsory retirement to the workmen, Smt. S.D. Konot, UDC and Sh. S.K. Rane, Technician Gr. III, is legal and justified?	No
4. If not, to what relief the concerned workmen are entitled to?	Concerned Workmen are entitled for reinstatement with 50% back-wages and continuity of service.

REASONS :

ISSUE NO. 1 :

7. At this stage we are taking Issue No. 1 raised by the 1st party contending that, 1st Party is not an "industry" as defined under Section 2(j) of the Industrial Disputes Act, 1947 whereas case of the 2nd Party, i.e., of concerned workmen, is that, it is an "industry" and provisions of Central Civil Service Rules are not applicable to them.

8. In that context, if we peruse, the pleadings of both, we find both have pleaded their case to some extent. Workmen in their Claim Statement at Exhibit 5 have stated that, they are governed by the provisions of Model Standing Orders and not by provisions of Central Civil Services (Classification, Control and Appeal) Rules, 1965, hence 1st party is an "industry". Whereas 1st party in Written Statement at Exhibit 8 had categorically stated that it is not an "industry". According to 1st Party appointment orders given to these 2 concerned workmen specifically reveals that, they will be governed by Central Civil Services (Classification, Control and Appeal) Rules,

1965 and they will be controlled by the said Rules and cannot be governed by the Model Standing Orders. They have also stated that, they are not doing any commercial activities and earning any profit. So it is not an "industry". They referred appointment orders of both the workmen involved in the reference and number of other correspondence of the Government of India taking contentions that, it is a Government Undertaking. It is also their case that, it is not a part of Government but it is an autonomous body functioning under the Ministry of Culture, Youth Affairs & Sports, Government of India. It is doing research and as such it is not an "industry".

9. Though there are pleadings we have to see whether there is evidence of the witness of the 1st Party to the effect in the proceedings? At the time of hearing Part I Award even on the issue of fairness of the enquiry and perversity of the findings the Management has led evidence of Shri C.K. Das only at Exhibit 29. Said was considered by me while passing Part I Award. Even in that deposition which is at Exhibit 29 Mr. C.K. Das, he accepts, in para 11 of Exhibit 29 that, he did not say anything about 1st Party as an "Industry". In the same depositions more precisely in paras. 27 to 30 of Exhibit 29 he states that provisions of Central Civil Service Rules are applicable and employees working in the 1st Party are governed by it. It is also stated by him that, in the Memorandum dated 20-12-1995 1st Party decided to conduct an enquiry against one of its employee according to Rule 14 of Central Civil Service Rules (Classification, Control and Appeal) Rules, 1965 which are adopted by the National Council of Science Museums (NCSM) vide clause 62(a) of By-laws of NCSM which is filed at page 464 of Exhibit 12. Even he has referred that, Miss Khot had challenged the decision of the 1st party for holding an enquiry against her under CCS (CCA) Rules, 1965 and Central Civil Services (Conduct) Rules, 1965. Even in para. 30 of the said affidavit he states that, employees of the 1st Party are governed by CCS Rules, 1965 which is adopted by the 1st party. However, he has not explained as to how by virtue of that, 1st party is not an "Industry" and how it cannot be answered in favour of the 1st Party. Even in the cross, in Exhibit-29 Shri C.K. Das has admitted that, Nehru Science Centre is not a Department of the Government. He also admits that, employees of Nehru Science Centre is governed under National Council of Science Museums (NCSM) By-laws. Then evidence of 1st Party was closed and written arguments were submitted by the 1st Party at Exhibit 37 on the preliminary issues where also no specific case was made out by the 1st Party as to how it cannot be called as an "Industry". The contentions of the 1st Party is that, Central Civil Service (Conduct) Rules are adopted by National Council of Science Museums (NCSM) and it is not an "industry". Except that, nothing is stated even in the written arguments. So from that I observed that, the point of "industry" was not seriously disputed by the

1st Party and I observed that, 1st Party was in agreement that, it is an "industry" and so I observed that I did not need and find it necessary to answer that issue specifically. However, as per directions given by the Hon'ble High Court this issue is now cropped up again even at this stage. However, while giving directions to this Tribunal one has to note that, Hon'ble High Court has observed, this Court should consider the issue of "Industry" provided, if raised on merits, in accordance with law.

10. So it is we turn again to the evidence led by the 1st Party after said directions, we find, 1st Party has led again evidence of Shri C. K. Das at Exhibit 47 who has given details regarding hierarchy of the staff in the 1st Party. He has also stated that 1st Party is not an "Industry" as it is an autonomous body under the Department of Culture, Union Ministry of Education and Culture, Government of India (Allocation of Business) Rules, 1961 as amended by Government Gazette dated 17-9-1979. The NCSM on its formation took over Birla Industrial & Technological Museum, Kolkata, Visversaraya Industrial & Technological Museum, Bangalore and Nehru Science Centre, Mumbai, under its control. All these 3 Museums were delinked from CSIR vide decision made by Governing Body of CSIR dated 21-9-1977 and by Society of CSIR at its meeting held on 23-11-1977. According to him NCSM is an autonomous body under the Ministry of Culture, Government of India. According to Shri C.K. Das 1st Party is primarily engaged in research and development of Science & Technology based on educational exhibits and conducting science educational programmes e.g. mobile science, exhibitions for rural areas, science seminars for students and teachers, engaged in teachers training programmes, and also vacation science workshops for students, science quiz etc. to develop scientific creativity and develop scientific temper amongst the students and public in general. He states that, Centre is visited by over six lakhs people every year which includes about 25% students and runs mobile programme for rural schools attract about two lakhs rural school children and teachers. It is further stated by Shri C.K. Das that, it is fully funded institution of the Government of India. The object of the 1st Party is to take over the administration and management of the said 3 museums/centres with all their assets of whatsoever nature and all their liabilities from the Council of Scientific and Industrial Research, a Society registered under the Societies Registration Act, 1860. He admitted that, it administers all these 3 museums/centres and their Regional Centres. It also require to establish and take over and administer new museums or centres of Science and Technology at all levels, to portray the growth of Science and Technology and their application in industry and human welfare, to design, develop and fabricate science museum exhibit, demonstration equipments and scientific teaching aids for science education and popularization of science, to popularize

science and technology in cities, urban and rural areas, to supplement science education given in schools and colleges and to organize various out of school educational activities to and likewise activities. He also states that, 1st Party is not engaged in activities which can not be called as business, trade, manufacturers and it is not earning any profit by doing such activities. However, in the cross this witness states that, he is an Administrative Officer of the 1st Party. He admits that, his affidavit (Exhibit 48) is not concentrating on the point of "Industry". Here I want to remind that while remanding this matter back for fresh trial, Hon'ble High Court has specifically stated that, this point can be freshly decided by the Tribunal, if raised on merits. But here Shri C.K. Das who is the only witness on this point examined in these proceedings admits second time that, his affidavit is not concentrating on the point of "Industry". He, however, admits that, Nehru Science Centre has no Scientist having Doctorate Degree in any related subject. He admits that, NCSM is a Society registered under the West Bengal Registrar Societies. He admits that, Nehru Science Centre is registered under the Societies Registration Act. He admits that, it is an autonomous body. He admits that, employees of the 1st Party are not civil servants of the Government of India. He admits that, persons like Turners, Fitters, Carpenters, Welders and Painters are also working in the centre of the 1st Party. He states that, these persons are utilized to fabricate scientific and educational exhibits. He admits that, Nehru Science Centre got grant upto 5-8 crores from the Government of India in the financial year 2006-07. He states that, 1st Party receives said funds of Government of India through NCSM, Kolkata. He states that, Nehru Science Centre received Rs. 2,03,68,000/- in the financial year 2006-07 for entire centres. Here he admits that, Central Government has given to it 11 acres of land at Worli to establish said museum. He admits that, 1st Party is charging Rs. 20/- for visitors per person. He also states that, Rs. 50/- is charged for Tourist group of 25 and for students Rs. 10/- per head. He also admits that, BMC students are charged Rs. 2/- per head and he also admits that they charge Rs. 20/- per head for third Science show. He also states that, for Tara Mandal Show, they charge Rs. 2/- per head and for multimedia Rs. 5/- per head. He states that, in the year 2006-07, 6,30,600 visitors visited Nehru Science Centre. Then he admits that, NSC has Auditorium on 300 sq. meters. It has also with facility of sitting 250 persons of 240 sq. meters where 300 visitors can be accommodated and that place is given on contract to run canteen who is charging visitors, rates of things are approved by the Nehru Science Centre. He admits that, it is given on leave and licence basis. He admits that, present Contractor is giving Rs. 8 lakh per annum to the Nehru Science Centre as Leave and Licence charges to run the canteen. He admits that, Nehru Science Centre conducts Cyber school and charges Rs. 5/- per student. He admits that science films festival is arranged by Nehru Science Centre for which Rs. 2/- per head is

charged. He admits that, other classes like Computer training is also arranged.

11. Then 1st Party examined Mr. Satyabrata Chakraborty, its Finance and Accounts Officer at Exhibit 50, Prabha Rao at Exhibit 52, Vijay P. Khandare at Exhibit 56, Shri Sudhir Vasant Gaonkar at Exhibit 57. They are not speaking about "Industry" and on the point of "Industry". So we have restricted to the evidence of Shri C.K. Das which is only on the point of "Industry" of the 1st Party and I have narrated the evidence of Shri C.K. Das as above in the light of the observations made by the Hon'ble High Court.

In these premises we have to decide whether the 1st Party can be called as an "Industry"?

12. It will not be out of place to refer to the proceedings filed by these Workmen in the State Industrial Tribunal under MRTU & PULP Act in which State Industrial Tribunal in Complaint No. 421 of 1996 under MRTU Act observed that, State Tribunal has jurisdiction holding State Government as an "appropriate Government". Said was challenged by 1st Party, i.e. Nehru Science Centre, by filing Writ Petition No. 1021 of 1997. While deciding said Writ Hon'ble High Court observed Central Government is an appropriate Government and not State Government and as such State Tribunal has no jurisdiction. While giving verdict to that effect Hon'ble High Court observed that, res-integra and the question can be answered on the basis of the principles laid down by Apex Court while deciding case of Air India Statutory Corporation ETC vs United Labour Union and Ors. decision given in National Institute of Science Museum appropriate Government of Nehru Science Centre is the Central Government and not State Government as State Tribunal has no jurisdiction. But it is worth to note that, said Writ was filed by Nehru Science Centre i.e. present 1st Party on the decision of the State Industrial Tribunal who ceases jurisdiction over the subject matter. However, Hon'ble High Court while deciding Writ filed by Nehru Science Centre observed that, Central Government is the appropriate Government and not State Government and as such State Tribunal has no jurisdiction. It is worth to note that, that time Nehru Science Centre did not feel it necessary to get its position clear whether it is "Industry" or not by filing Writ against the order of the said State Tribunal. It appears that Nehru Science Centre accepted its position as an "Industry". Even it did not challenge its own status but challenged the complaint of the workmen involved in the Complaint filed under MRTU & PULP Act. When 1st Party i.e. Nehru Science Centre challenged the jurisdiction of the State Tribunal it did not challenged its own position saying that it is not an "Industry". Even Hon'ble Bombay High Court while narrating contentions of the Nehru Science Centre address to the Nehru Science Centre as a

"employer Industry". From records it reveals that, Advocate Senior Counsel Shri Kama who was the Advocate of 1st Party in Writ Petition No. 888 of 2007 was the same Advocate in Writ Petition No. 1021 of 1997 who challenged the order of State Tribunal in it. Besides proceeding of Accident Claim was conducted in State Labour Court about the workman of Nehru Science Centre by Number W.C. No. 598/B-107 of 1997 in which 10th Labour Court of State, Bombay awarded compensation to heirs of the deceased workman of Nehru Science Centre of which copy is filed at page 93 of Exhibit 49. In my considered view all these now does not permit to say that it is not an "Industry", Nehru Science Centre and estopped it from challenging its own status as "Industry". Besides, Hon'ble High Court, Bombay, while deciding Writ Petition No. 1021 of 1997 observed State Tribunal has no jurisdiction that means this Tribunal has jurisdiction. Besides said judgment was referred by both in their written arguments twice i.e. at the stage of arguing the reference while arguing their case at the time of Part I Award and even now after remand of the matter by Hon'ble High Court after allowing Writ Petition No. 888 of 2007.

13. Apart from that 2nd Party referred to the decision of this Tribunal while deciding the case of *Nehru Science Centre Vs Shri P.G. Kelkar in Reference No. CIT-2/53 of 1999* wherein Nehru Science Centre was a party. While deciding that reference this Tribunal i.e. my Predecessor observed Nehru Science Centre is an "Industry". Said decision was given on 1-1-2002. It is pertinent to note that, said was not challenged by the 1st Party i.e. Nehru Science Centre. Even in the said reference my Ld. Predecessor observed Nehru Science Centre is an "Industry" by deciding specific issue and by discussing the evidence and case-law on it. Moreover, 2nd Party's Advocate referred to the judgment of Industrial Tribunal, Bangalore, while deciding Industrial Dispute No. 128 of 2000 between Visvasvaraya Industrial & Technical Museum, Bangalore vs Their Workmen wherein it held that, Visvasvaraya Industrial & Technical Museum, Bangalore as an "Industry" and the same was confirmed by the Kamataka High Court, Bangalore while deciding Writ Petition No. 3524 of 2007 wherein it was confirmed that Visvasvaraya Industrial & Technical Museum, Bangalore, is an "Industry". He also referred to the citation of Apex Court while deciding the Appeal filed by *Physical Research Laboratory vs. K.G. Sharma* published in (1997) 4 SCC page 257 where also Apex Court observed that, "Physical Research Laboratory is not an "Industry" because it is purely a research organization discharging Government functions and a domestic enterprise than a commercial enterprise, though it is taking employee's co-operation in achieving its purpose." He also referred to the decision of Apex Court of larger Bench i.e. of 7 Judges in decided case of *Bangalore Water Supply & Sewerage Board etc. vs. A. Rajappa & Ors.* published in 1978 111.1

page 349 a Though said issue was referred to a Large Bench still it is not decided otherwise where Apex Court observed as follows :

".....we have a very harvest of rulings on what is an "industry" and we have to be guided by the varlorum of criteria stated therein, as fair as possible, and not spring a creative surprise on the industrial community by a stroke of freak originality."

Apex Court also observed :

"A Judge must not alter the material of which the Act is woven, but he can and should iron out the creases."

Besides, Apex Court observed that :

".....it may indubitably be assumed that the key aspects of the public administration like public justice stand out of the circle of the industry"

It also observed that :

".....Unless there is a quid pro quo for the service, it cannot be an industry." ".....that the service must be in the nature of trade in a different grab."

"for the purpose of rendering services there may be "no industry" but for person who want profit from services rendered it could be an "industry"."

It also observed that :

"It is the character of the activity which decides the question as to whether the activity in question attracts the provision of S.2 (J); who conducts the activity and whether it is conducted for profit or not do not make a material difference."

It is also observed that :

"..... if a private citizen runs a hospital without charging any fees from the patients treated in it, it would nevertheless be an under taking under S. 2(J). Thus the character of the activity involved in running a hospital brings the institution of the hospital with S.2 (J)."

It also observed that :

"There is a wisdom in the suggestion that in view of the difficulties in finding the meaning of the term "industry" as defined in the Act, it is best to say that an industry cannot strictly be defined but can only be described..... It is not the motive of an activity in making goods or rendering service, but the possibility of making them marketable if one who makes goods or renders services so desires, that should determine whether the activity lies within the domain or circle of industry. But even this may not be always a satisfactory test."

"The institution which fulfill the Triple Test i.e. in function (1) Systematically (2) it function with co-operation of employer-employee and (3) its production or distribution of goods and services

calculated to satisfy human wants and wishes is an industry."

"profit making motive is not sine quo non of Industry, functionally or definitionally."

It is also observed that :

"..... what is an industry in America or the Soviet Union may not be once in India and even in our country what was not an industry decades ago may well be one now. Our judgment here has no pontifical flavour but seeks to serve the future hour till changes in the law or in industrial culture occur."

It is also observed that :

"Absence of capital does not negative "Industry". Nay, even charitable services do not necessarily cease to be "industries" definitionally although popularly charity is not industry."

14. Against that 1st Party's Advocate referred citation where Apex Court while deciding case of *Physical Research Laboratory vs K G. Sharma*, published in 1997 ILL J. page 625 observed that Physical Research Laboratory was not an "Industry". In that case Physical Research Laboratory claimed as Research Centre doing is activity of research on a systematic manner with the help of its employees. In that case status of the Physical Research Laboratory that it cannot be called as an Industry was not challenged. However, in our case status of the 1st Party is challenged. Another ratio referred by the 1st Party of Jharkhand high Court in case of *Employees in relation to the Management of the Central Horticultural Experiment Station, Ranchi and Presiding Officer, Central Government Industrial Tribunal No. 2, Dhanbad and anr.* citation published in 2004 (102) FLR page 3571, in which observed that, the said Institute is not an "Industry". In that case also said Institute was engaged in activities of research, teaching, training, etc. etc. and its status was not challenged. But here status of the 1st Party is very much challenged by the workmen involved in the reference. Besides said Institute was discharging Governmental functions and domestic enterprises than commercial enterprises. So it was treated not an "Industry". Another case law of Allahabad High Court is also referred by the 1st Party's Advocate where Allahabad High Court while deciding the case of *Ramesh Chandra Singh Vs. The Union of India*, citation published in 1981 LAB. I.C. page 781, observed that Section 2(J) of the Industrial Disputes Act, 1947 states that employees cannot claim as of right unless it was approved as of right. He also referred to decision of the Calcutta High Court while deciding case of *Central Agricultural Research Institute and anr. vs Presiding Officer, Labour Court and ors.*, the citation published in 1998 LAB I.C. page 1490, where Central Agricultural Research Institute was considered as not an "Industry". where 40 workers were

engaged by the Research Centre. Said workers were engaged on daily wages and were continued till the date of their termination. Said workers claimed permanency on the basis of completing 240 days working. However, said benefit was not given to the workmen by the Institute. But in our case, that is not the dispute and as such said ratio is based on different footing and different facts. Besides status of the said Institute was not challenged in that case. But in our case status of the Nehru Science Centre is challenged. He referred to decision of Jharkhand High Court while deciding case of *Central Rainfed Upland Rice Research Institute, Hazaribagh and Union of India and ors.*, citation published in 2002 (2) L.L.N. page 655, where Hon'ble Jharkhand High Court observed that, both the parties in the evidence did not plead that the Central Rainfed Upland Rice Research Institute is engaged in as brought on record and so it cannot be said "Undertaking" analogy to be business or trade. It was also observed that, there is nothing on record to suggest that the Central Rainfed Upland Rice Research Institute is engaged in commercial or industrial activity, nor anything on the record to suggest any economic venture on the part of the workmen. Even it has no object to produce and distribute service to satisfy needs of the consumer community. So it was observed that, the Institute is merely carrying on the activity of research in a systematic manner with the help of its employees as it lacks all element to make it an organization carrying business activity concerning any trade or business to bring it within the purview of industry as defined under S.2(J) of Industrial Disputes Act, 1947. However, in our case which is on hand workman involved in the present reference have specifically made out the case, even they have given the details how 1st Party is doing its activities. They also stated how 1st Party is charging visitors. They have also given details regarding funds made available by Government and income of the Institute. Besides it is also tried to bring on record that Nehru Science Centre has not registered any specific discovery in its name to add against its name to treat as a research Institute as happened in the referred case (Supra).

(15) If we consider all these citations, evidence brought on record and more precisely citations referred by the 2nd Party of the Apex Court while deciding case of *Bangalore Water Supply & Sewerage Board etc. v/s. A. Rajappa & ors* published in 1978 1 LLJ page 349 judgment of 7 Judges of Supreme Court and the fact that, no any employee working with the Nehru Science Centre is having Doctorate/Ph. Degree in any related subject and noting that employees like Fitters, Turners, Welders and Painters are working with it and that, it is charging to the visitors and having turnover of the year more than Rupees Five Crores in the financial year 2006-07 and noting that employees working in the 1st Party i.e. Nehru Science Centre are not civil servants of Government of India, noting the activities of the 1st Party which are systemic though not

specifically run on commercial basis to gain profit and that no any research is noted against the name of 1st Party. I am of the considered view that Nehru Science Centre is an "industry". Even at this stage i.e. in the second round of this litigation, evidence except of C.K. Das is lead by the 1st Party to add weightage in the evidence to conclude that, 1st Party i.e. Nehru Science Centre is not an "Industry". In fact burden is and was on the 1st Party to show that, Nehru Science Centre is not an "Industry". Even my predecessor as referred above, while deciding reference No. CGIT-2/53 of 1999 observed that, this Institute/Centre is an "Industry" which was not challenged by the Nehru Science Centre and disturbed by any authority upto this date though said Award was passed on 1-2-2002 and that, Hon'ble High Court while deciding Writ Petition No. 1021 of 1997 did not utter anything about the nature of the Nehru Science Centre other than "Industry" and relying on the pleadings Nehru Science Centre and Union involved in that case, Hon'ble High Court observed Central Government is an appropriate Government and not State Government reveals that, 1st Party is an "Industry". So I answer this issue to that effect.

ISSUE NO. 2:

(16) When Nehru Science Centre is an "Industry" and when our Hon'ble High Court while deciding Writ No. 1021 of 1997 of Nehru Science Centre declared State Government is not an appropriate Government and State Industrial Tribunal has no jurisdiction but it is the Central Government, which is appropriate Government, I conclude that, this Tribunal has jurisdiction. As stated above C.K. Das of the 1st Party had admitted that employees of the Nehru Science Centre are not Civil Servants of Government of India and it is autonomous body funded by Government of India. Besides, decision given by my predecessor in the earlier Reference i.e. CGIT-2/53 of 1999 rather lead me to accept the position given while deciding Reference No. CGIT-2/53 of 1999 which is not yet disturbed by any competent authority, I conclude that, this Tribunal has jurisdiction. Accordingly I answer this Issue to that effect and conclude that this Court has jurisdiction.

ISSUE NOS. 5 & 6:

(17) Now, we have to consider whether action taken by the Nehru Science Centre against Miss S.D. Khot and Shri S.K. Rane in convicting them to retire voluntarily is legal and justified?

(18) We have to see that what charges are leveled against these two? Nehru Science Centre has leveled charges against Miss Khot of insulting Shri V.P. Khandare, Assistant (F&A) by using abusive and objectionable language while Shri Khandare advised her to perform her duties properly. The said charge was leveled regarding the incidents dated 27-7-1995 and 24-8-1995. Another charge of taking part in the demonstrations and shouting abusive and defamatory slogans against the Director, Nehru Science

Centre, in taking part in the demonstrations on 14-9-1995, 21-9-1995 and 10-10-1995 is also leveled against her. Besides charge of absenteeism, attending office late and lack of devotion towards duties is also leveled against her regarding period span of October, 1993 to September, 1995. So also charge of habitually neglecting work from July, 1988 onwards is also leveled against her. Charge of leaving work place and attending gate meeting during office hours on 17-8-1995 is leveled against her. Charge of deterring the security personnel on 5-10-1995 who were on duty is also leveled against her. All these charges were leveled against her by Charge Sheet dated 20th December, 1995. Then details are given in Annexure 11 to the charge sheet which is of 8 pages describing alleged activities of the concerned workman Miss Khot. There are charges leveled against the other charge sheeted employee viz. S.K. Rane who is another concerned workman. Charges of willfully and persistently disobeying the instructions of superiors and misbehaving with them by using derogatory and insulting language and threatening them is leveled against Rane. Another charge of habitually and willfully neglecting the work assigned to him during March, 1995 to October, 1995 is alleged leveled against him. Charge of habitually remaining absent frequently without permission and lack of devotion of duty is also leveled against him. charge of acting with the Management by adopting unfair means which are prejudicial to the interest of the Centre which is treated as subversive of discipline is also leveled against him. Besides that charge of bringing political influence and participating in the demonstration from 17-8-1995 to 24-8-1995 is leveled against him. Charge of taking active part in the demonstration staging in the premises of the Nehru Science during working hours is also leveled against him and lastly charge of deterring the security personnel who were on duty at the main gate, of Nehru Science Centre, from discharging their official duties is also leveled against Rane.

(18) Now, we have to see whether these charges against them are proved by the Management? For that Management has placed reliance on the affidavit filed in lieu of exam-in-chief of Mr. Satyabrata Chakraborty, its Finance and Accounts Officer who is examined at Exhibit 50, by filing an affidavit of Prabha Rao at Exhibit 52, an affidavit of Vijay P. Khandare filed at Exhibit 56 as well as affidavit of Shri Sudhir Vasant Ganekar filed at Exhibit 57. MW-2 Mr. Satyabrata Chakraborty in his affidavit narrated misconduct or misbehaviour of Miss Khot mentioning that the remained absent from duty on 4-3-1994 though she was advised not to take leave upto 30-4-1994. Even he states that, he reported about it by his written complaint dated 4-3-1994. He also referred to the Office Note dated 16-3-1994 where charge of negligence was leveled against her. He also mentioned about inordinate delay done by Miss Khot about T.L.C. claim of staff. He also referred to the note dated 14-12-1995 submitted by Shri Sandesh Lunan,

the then Stores & Purchase Officer, memo dated 14-9-1995 given to Khot, regarding her misbehavior with officer by using abusive and objectionable language, where misconduct with Khandare and complaint filed dated 15-9-1995 and 5-10-1995 filed by Shri Harish Salian were referred. He also referred to the complaint dated 14-9-1995 made by Mr. Phadke and Mr. M. Madhu the then Section officer against Khot and alleged that Khot was having habit of remaining absent without permission of the office. He also referred to the note dated 31-10-1988 given to Miss Khot by K.U.Menon. He also referred to leaving work place unauthorisedly by Miss Khot on 5-10-1995. He referred to the staging of demonstrations on 17-08-1995, 14-09-1995, 21-09-1995, 27-09-1995, 05-10-1995 and 10-10-1995 which were held at the instigations by the concerned workmen, Miss Khot, who instigated the staff to take part in the demonstration. He also referred to the memo dated 21-09-1995 given to Miss Khot by Mr. R.M. Chakraborti, the then Director. However, in the cross this witness says that, he did not know whether any particular action was taken against Miss Khot about the incident dated 27-7-1995. He is also unable to state whether on 27-7-1995 or 28-7-1995 Miss Khot insulted Mr. Khandare as narrated in para-9 of his affidavit. He states that Mr. Khandare was discussing with him about purchase proposal and at that time Miss Khot entered his cabin. He states that Miss Khot had put up the note on purchase proposal which was rotated through channel to him. He states that, Miss Khot put up purchase note because she was concerned with that assignment. He admits that, said proposal was not favouring anybody. He states that normally 3 quotations were called. He admits that, Director has power to sanction purchase proposal which should be rotated through proper channel. He admits that, said work was assigned to Miss Khot. He admits that after obtaining approval from Director 2 quotation can be accepted. He states that, he cannot say about the instructions given to Miss Khot as mentioned by Mr. Khandare in his depositions recorded before the Enquiry Officer which are produced at page 38 of Exhibit 55. Even he unable to comment on the depositions of Khandare who deposed before Enquiry Officer that, other two quotations which were alleged suppressed by Miss Khot were not with her but were actually with Shri S.N. Salian, LDC working for Stores Section of Nehru Science Centre and he personally collected the missing quotations from Salian later. He also admits that, he has no evidence to show that, these two quotations were recovered from Miss Khot. He admits that, reply given by Miss Khot on the query was the reason behind quarrel and insulting Khandare. He also admits that he was not present when allegedly Khot abused Khandare. Then he admits that, memo was issued to Miss Khot about abusing Director. He admits that, he was one of the witness in the departmental inquiry. He admits that, he has not stated in the enquiry that he heard Miss Khot abusing Director. He admits that, demonstration was held after office hours. He

also admits that, said demonstrations were held in front of the office. He admits that office time is between 10.00 a.m. to 5.00 p.m. whereas centre time is 11.00 a.m. to 7.00 p.m. This witness is unable to state who others are charge sheeted like Rane and Miss Khot involved in the reference. He admits that, there was no damage to the property of the Centre during said demonstrations. He admits that, in the memo dated 14-5-1995 no details of incident of alleged misconduct were given. He states that, he did not know whether Miss Khot traced one case of fraud committed by Mr. Sandesh Loman who was Stores and Purchase Officer. He also states that, he did not know regarding note put up by Miss Khot. He is also unable to say about memos at pages 77 and 78 of Exhibit 55 regarding late coming in office of which charge is leveled against Miss Khot and states that, late coming can be considered as casual leave against it is debited or not. He is also unable to state whether leave availed by Miss Khot from October, 1988 to November, 1995 and was sanctioned the leave. He is unable to explain as to why Miss Khot was charge sheeted for the said alleged act. He is also unable to state whether Miss Khot sought any leave beyond permissible limit. He is also unable to state whether Miss Khot was not paid and was did not paid nor she did not get the wages back which were deducted as per page 83 and 84 of Exhibit 53. He is also admits that, there may be delay on the part of the office for want of budget purposes from office side. Then question was put that, when page 175 of Exhibit 55 is not concerned with Miss Khot then why it is mentioned in the charge sheet to which this witness unable to explain as to why it is like that. He is also unable to give the number of members who attended the Gate meeting. He also admits that, he has not seen Miss Khot in the demonstration. He is also unable to mention who is Shinde mentioned in the charge sheet. He also states that, he has not seen whether demonstration was held before the office gate or before the gate of Nehru Science Centre. He is unable to state whether Maharashtra Sthaniya Lokadhikar Samiti is a non-political organization. He also states that, he is not remembering whether Miss Khot replied to Article 6 of the charge sheet. Then Management examined its witness, Prabhal Roy, at Exhibit 52, who tried to describe the activities of the 1st Party and role played by Rane and Miss Khot. He is specific on the charges of Rane. If we peruse the charges leveled against Rane, about that he states that, Rane refused to carry out the work assigned to him and did not carry out the jobs assigned to him. He states that, he filed another complaint against Rane vide his letter dated 5-4-1995. He states that, he submitted further complaint dated 16-9-1995 against Rane for non-compliance of instructions given to Rane. He states that, Office Memorandum dated 6-10-1995 was issued to Rane for his refusal to carry out the official jobs assigned to him on 16-9-1995. He also alleges that, Rane was in the habit of misbehaving with his superiors and take part in Union activities. He further states that, Rane was having habit of

leaving place of work without permission. Rane was also charged of instigating other staff members, of Nehru Science Centre, to participate in staging demonstrations and Rane was habitually remaining absent without permission, overstaying leave and using abusive and threatening language to the staff. In the cross this witness admits that, time prayed by Rane for 10 days, as per page 5 of Exhibit 54 was not granted to him to reply the charge sheet. He admits that, Rane denied the charges by page 7 of Exhibit 54. He admits that, as per page 7 of Exhibit 54 he explained the charges. He admits that, there is no documentary evidence to show that Rane found absent from his work spot. He admits that, C.R. dated 16-9-1995 page 23 of Exhibit 54, was replied by Rane by page 13 of Exhibit 54. Charge of late attendance was also replied by Rane. He states that, he has no idea whether Gate meeting was organized by employees Union. He is also unable to state whether said demonstration was arranged by Staniya Lokadhikar Samiti Mahasangh. When question was put whether he saw Rane taking part in demonstration. On which he replied he learnt it though security report. He states that, he do not know whether Rane went to gate to join the meeting. The charge sheet was regarding demonstration in front of office and not in front of gate. Then Management has examined Shri Vijay Pandurang Khandare at Exhibit 56 on the point of abusive words used by Miss Khot against him on 27th July, 1995. He is also speaking about complaint filed by Harish Salin. He also speaks about written complained filed by D.D. Phadke. In the cross this witness states that, minimum 3 open quotations are required to accept the proposal. He admits that, Committee can decide to open the tenders of 2 quotations and then only Director can order to open the two quotations. He admits that, he do not know whether Director has given any such order to open the two quotations. He admits that, he do not know whether Miss Khot has put up note on 27-5-1995 to the Finance & Accounts Officer. He admits that, his statement was recorded in enquiry at page 38 of Exhibit 55. He admits that, in the said enquiry he has stated that one quotation was lying with Mr. Salian and not with Miss Khot. He admits that, he was supervising the work of Miss Khot. He states that, on 27-7-1995 Miss Khot was in the cabin of Mr. Chakraborty who was Section Officer Finance & Accounts where he was called. According to him Miss Khot abused him in the cabin of Chakraborty in his presence. He states that, he complained about that to Chakraborty. However, Chakraborty in his depositions has stated that he did not know whether abuses were given by Khot to Khandare. He also admits that, he did not know whether abuses were given to Director. He admits that, page 71 of Exhibit 51 is not addressed to anybody. He also admits that page 72 of Phadke is not addressed to anybody. He also admits that page 73 is copy of complaint of Madhu and it is not addressed to anybody. He admits that Phadke worked in another side of the building. Then

Management examined its witness Shri Sudhir Vasant Gaonkar at Exhibit 57. This witness is examined on the point of alleged part taken by Khot and Rane in the demonstrations. He states that, he himself has witness demonstration where these two participated in it. He also states that slogans were given by those 2 referring to Rane on 14-9-1995, 21-9-1995, 27-9-1995, 7-10-1995, 10-10-1995 and Miss Khot on 14-9-1995, 21-9-1995, 10-10-1995. He alleged that, Miss Khot and Rane were in the demonstration dated 17th August, 1995. He states that, he lodged a complaint regarding that on 17th August, 1995. In the cross this witness says that, he cannot say on which date demonstration referred in para 1B was held at 1.00 p.m. and 5.30 p.m. He states that, he was at main gate duty on 17th August, 1995. He further states that, even on 14-9-1995 he was on main gate. He states that, he has no office report regarding demonstration on 17-8-95. He states that, these persons were trying to hang board which we refused on which quarrel took place. He also admits that, as per page 195 of Exhibit 53 Shinde who is mentioned as participant in the demonstration was actually on tour from 2-8-1995 to 19-8-1995. He admits that, Shinde was not in demonstration of 17th August, 1995 though security report page 194 of Exhibit 55 reveals like that. He again states that, he was on main gate and not in front of gate.

(19) So this is the evidence led by the 1st Party about alleged abuses given by Miss Khot, about alleged participation of both in the demonstration. As far as evidence of Mr. Vijay P. Khandare, Mr. Satyabrata Chakraborty and Shri Sudhir V. Gaonkar are concerned, all have contradicted their own story. Mr. Chakraborty admits that, he cannot remember whether on 27th July, 1995 or 28th July, 1995 Miss Khot insulted Khandare. Even Chakraborty admits that, one quotation was lying with Salian and unnecessarily Khot was held responsible for that. Even he admits that, missing quotation was collected from Shalian. Even he is not challenging about depositions made by Shalian who had admitted that he was denying admitting before the Enquiry Officer that, one of the quotation was lying with him which was recovered later on. Even Chakraborty admits that he was not present when Khot allegedly abused Khandare. Whereas Khandare's case is that, Khot abused him in the presence of Chakraborty. Even it is admitted that demonstrations were held after office hours. About taking part in the demonstration Gaonkar, who is examined by the Management, who was Security Guard, admits that, Shinde who is mentioned as participant in the demonstration was on tour on 17th August, 1995. When he was shown in the demonstration record prepared by the 1st Party reveals that, Shinde was in demonstration though official record reveals that Shinde was on tour on 17-8-95. When Chakraborty has not supported case of Khandare that Miss Khot abused him. When all these admit that demonstrations took place after office hours and no loss was caused to the property. When Chakraborty is unable to remember whether Miss Khot insulted Mr. Khandare on 27th July, 1995 or 28th July, 1995 and nobody stated about the abuses given by Miss Khot to the Director? When there is no evidence of demonstration by these 2 workmen during office hours?

Besides no specific case is made out about their leaving place of work or attending office habitually late? In my considered view, how those 2 can be held responsible for the charges levelled against them. It is worth to note that, enquiry was conducted where G.S. Rautela, Shri A.S. Manekar, Shri Satyabrata Chakraborty, Shri D.D. Phadke, Shri Sandesh P. Luman, Stores & Purchase Officer, Shri V.N. Joshi, Education Officer "B", P. Rao Shri Vijay P. Khandare, Shri D. Sabapathi, Shri Harish N. Salian, Shri B.J. Rajadhye, Shri Sinaendra Kumar, Shri Kishor R. Sutar, Shri Kiran A. Yele, Shri Arun D. Baravkar and Shri Sharad G. Yadav were examined? However, before this Court Mr. Chakraborty, Prabal Roy, Vijay Khandare and Sudhir Gaonkar are examined about the alleged incident.

(20) Now, if we what was recorded by the Enquiry Officer in his domestic enquiry where he examined these witnesses referred above reveals it was recorded ex-parte. In fact I observed the domestic enquiry was not fair and proper and finding perverse. Said findings are not disturbed by Hon'ble High Court while deciding Writ Petition No. 888 of 2007. The evidence recorded by the Enquiry Officer of the witnesses referred above reveals that, there was one sided enquiry. Presenting Officer, was questioning witnesses which were of leading questions and witness have stated just as put up to them e.g. question was put to Raoutela is like this:

Q: Do you have any knowledge about "Miss S.D. Khot's participation in that Gate meeting?"

To which witness answered that

"As per the report Miss S.D. Khot was also participating in the Gate meeting."

Another question which was put to him was like this:

Q "In your evidence you on 25-2-1997 you said that you have witnessed some demonstrations by the staff members in the Center. Did you witness Miss S.D. Khot taking part in such demonstrations?"

To which this witness answered:

"Yes"

(21) So this was the type of examination of the witnesses taken. It is pertinent to note that these witnesses were not cross-examined by charge-sheeted employees i.e. by Miss Khot or Rane or by their representative. Leading questions were put by the Presenting Officer to the witness which were answered by witness by answering "yes" or "no"

The question was like this

Question by Presenting Officer to Miss Khot.

"Do you have knowledge about Miss S.D. Khot's involvement in argument with Security some time in October, 1995?"

To which this witness answered:

"Yes. I learnt this from the office records and reports submitted by the Security."

It is permnent to note that, this was recorded in 1997 about the incident of 1995. Besides, this witness Raoutela

is stating on the basis of the report submitted by Security persons and he was not having any personal knowledge about the involvement of Khot in the demonstration. Another question put to Manekar by the Presenting Officer reveals that, this Manekar has not personally witnessed the gate meeting but he deposed before the Enquiry Officer saying that, he learnt about the meeting. Same question put to the witness Manekar was that :

Q : "Do you witness Gate meeting?"

To which he answered :

"No. I have not personally witnessed the gate meeting. But I was present inside the office and learnt about the Gate meeting."

Then if we turn to the evidence of witness S.G. Yadav question put to him was like this :

Q : "Where such demonstrations were held?"

To which he answered :

"Outside the card punching machine gate near pond."

Q : "Do you see S.K. Rane in the demonstration?"

Against that question Enquiry Officer objected the leading question. However, in the next question which was put to him was like this :

Q : "Do you see Miss S.D. Khot taking part in such a demonstration?"

To which this witness replied:

"Yes. I have seen her."

It is pertinent to note that said leading question was not objected by Enquiry Officer and said question was allowed but question of Rane was disallowed which was of the same type which reveals that entire questions were put by Presenting Officer were leading questions. Even witness Manekar before Enquiry Officer stated that he learnt about the participation of Khot from others. He did not utter that this was according to his personal knowledge regarding participation in the gate meeting. Even witness Chakraborty deposed before the Enquiry Officer that he learnt about gate meeting from Keelkar. About slogans witness Phadke, before Enquiry Officer, states that, he learnt about the slogans from S.P. Luman and Shri B.J. Rajadhyax. However, Luman and Rajadhyax before the Enquiry Officer are silent about slogans given by the charge-sheeted employees. About leaving place of work by Mrs. J.D'souza and employee P.K. Shiposkar, Shri S.M. Deshpande witness Shri P. Roy deposed that, they also left work place without permission of their superiors. However, no action appears to have been taken against them but these two charge-sheeted employees were only targeted, involved and charges of leaving work place without permission of the superiors were levelled against them. About purchase proposals Khandare was witness before the Enquiry Officer who stated that purchase proposal was examined by him on 26-7-1995 in which he found that only one quotation was attached. He immediately brought that fact to the notice of the S.O.(F.A.). He issued instructions to the charge-sheeted employee Khot to discover and attach the other quotation. He further stated that on 26-7-1995 Miss

Khot came to his cabin and questioned as to why she was involved in the missing quotations. He also states that. Miss Khot was claiming that, she is not responsible for receiving quotations. This witness further states before the Enquiry Officer that, actually missing quotations were laying with H.N. Salian, then working in Stores Section of Nehru Science Centre at that time and Shri Khandare personally collected missing quotations from Salian. In fact charge of missing quotations and not doing work properly were levelled against Miss Khot. But here case of missing quotations disprove these allegations and it reveals that said quotations were with Salian and not with her and she is not responsible for that. Even said Salian is examined before Enquiry Officer. However, said witness answer that he did not remember that incident though Khandare deposed to that effect. Then before this Tribunal Management examined C.K. Das, Satyabrata Chakraborty, Prabal Roy, Vijay Khandare and Sudhir Vasant Gaonkar as witnesses of the Management.

(22) As stated above C.K. Das is telling about actual status of the Nehru Science Centre and speaks what is its actual status. Witness Satyabrata Chakraborty status about misconduct and misbehaviour of Miss Khot. He also referred to the deficiencies of Miss Khot in working. He also referred to the office notes and memos given to Miss Khot. However, this witness in the cross states that he did not remember whether on 27-7-1995 or 28-7-1995 Miss Khot insulted Khandare as narrated in para-9 of his affidavit. He also unable to state whether Miss Khot put up note on 2 purchase tenders. He admits that, if there is objection in purchase proposals Miss Khot used to put up the notes accordingly. He admits that after obtaining approvals of the Director two quotations can be accepted. He further states that, he cannot say about the instructions given to Miss Khot as mentioned by Khandare in his enquiry depositions. He also state that, he did not want to comment on the depositions of Khandare. He admits that, missing quotations were found with S.N. Salian. He is unable to comment on Salian's depositions regarding missing quotations before Enquiry Officer. He admits that, he has no evidence to show that these two quotations were recovered from Khot. He admits that, Khot was person behind said quarrel. He admits that he was not present in the section when said incident of abusing Khandare occurred and charge of abuses given to the Director is levelled against her. In fact from the 1st Party's story alleged incident took place when Khandare and Chakraborty were present. But this Chakraborty before this Tribunal states that, he did not remember. He deposes that, he did not hear the abuses given to the Director and he was not present in the Section when alleged incident of alleged abuses given to Khandare by Miss Khot took place. He admits that, he was a witness in the enquiry and that in the enquiry he told Enquiry Officer he heard Miss Khot abusing Director though he had not heard. About participation of other employees in the demonstration, question was put to Chakraborty to which he answered that, he cannot state the names of other employees. He admits that, demonstration took place in front of the office. He states that, slogans were given from main gate of office. He admits

that, office time was from 10.00 a.m. to 5.00 p.m. and Centre time was from 11.00 a.m. to 7.00 p.m. He admits that there was no damage to the property of the Centre. He admits that, he cannot give the list of the work neglected by the Charged sheeted employees. He admits that, in the memo dated 14th September, 1995 no details of misconduct were given. He states that, he did not know whether as per page 77 and 78 of Exhibit 55 late coming is considered and casual leave against it is debited. He further states that, he did not know whether, leave availed by concerned workman from October, 1988 to November, 1995 which were sanctioned by the competent authority. He further states that, he cannot say why Miss Khot alone is charge sheeted for late coming when record reveals that, number of employees have such a late coming report. He is also unable to state whether, Miss Khot sought any leave beyond permissible limits. He further states that he did not know whether, she was not paid and she did not get the wages back which was deducted as per pages 83 and 84 of Exhibit 55. He further admits that, no reason is given on pages 125 and 126 of exhibit 55 for delay in passing the bill. He admits that, the delay can be caused because of the office for want of budget provisions. He admits that, he did not know how many members were there in the demonstration. He admits that, he has not seen Miss Khot in the said demonstration. He states that, he do not know whether demonstration was held before office gate or gate of Nehru Science Centre. He admits that, he has no idea whether Sihaniya Lokadhikar Samiti arranged that demonstration and it is a non-political organization. He admits that, salary of one day was deducted of Miss Khot. Regarding charge levelled in Article 6 of the Charge Sheet. He admits that, he did not know contents of para-1 of note dated 5-10-1995 submitted by Security Guard filed at page 204 of Exhibit 55. He admits that, he did not know whether 2nd Party went to the Secretary of the Union on that day not to participate in the demonstration.

23. Witness Prabal Rao is speaking about charges levelled against Rane another charge sheeted employee. Charge of not doing work properly, disobeying the orders of superiors, about various acts of misconduct, leaving work place, taking part in the demonstration without permission were levelled against Mr. Rane. This witness has stated all that in the affidavit but in the cross this witness states that 10 days time was not given to Rane to reply to the charge sheet though he prayed. He admits that, Rane denied the charges. He admits that, there is no documentary evidence to show that, Rane was found absent from his work on particular date and at particular time. He admits that, C.R., mentioned at page 23 of Exhibit 54, dated 16-9-1995 was replied by Rane regarding charge of late coming on 4 occasions as mentioned on page 18 of Exhibit 54. He admits that, against that 2 days' C.R. was debited. He admits that, he did not know whether gate meeting was organized by employees of the Union. He also states that, he did not know whether, demonstrations were arranged by Maharashtra Sthaneya Lokadhikar Samiti Mahasangh. When question was put what political influence was brought by Rane to which he replied that, he did not know. Then question was put to him "Whether he had seen Rane participating in the demonstration" to which

he replied that, "he learnt from security report". He further states that, he did not know whether Rane actually went out of Gate and collected letter from Maharashtra Sihaniya Lokadhikar Samiti and handed over it to the office. He further admits that, he did not know whether any memo was issued to Rane. In the charge sheet it is mentioned that, demonstration was held in front of the the office and not in front of the gate. Then Management examined Vijay P. Khandare who deposed about Miss Khot and missing of quotations. He also stated about abuses given by Miss Khot to him and to Director. In the cross this witness states that one quotation was laying with Salian and not with Miss Khot though charges were levelled against Miss Khot about missing of the quotations. He states that, on 27-7-1995 Miss Khot was in the cabin of Mr. Chakraborty who was Section Officer (F.A.) where he was called. He states that, Miss Khot abused him in presence of Mr. Chakraborty. He further states that, he complained about said incident to Mr. Chakraborty. However, Mr. Chakraborty has stated that, he has not heard abuses given by Miss Khot to Khandare and to Director also. He admits that page 71 of Exhibit 51 is not addressed to anybody. He admits that page 72 of Exhibit 51 of Phadke is also not addressed to anybody. He further states that, page 73 is a copy of the complaint which was also not addressed to anybody. He is unable to state how Phadke learnt about abuses when he is in another part of building. He also states that, he did not witness abuses given by Khot to Director.

24. Then Management examined its witness Sudhir V. Gaunkar on the point of taking part by both in the demonstration and giving slogans. In the affidavit this fellow has given number of dates and number of slogans mentioned in the name of each officer against whom such alleged slogans were given. He states that, Miss Khot participated in the demonstration near Gate and in the cross this fellow states that, he cannot say the dates of demonstrations referred in para-1 of his affidavit. He admits that, he was on main gate on 17th August, 1995 as well as on 14th September, 1995. He admits that, he has no official report regarding demonstration on 17-9-95. He admits that, as per page 195 of Exhibit 55 Shinde was on tour between 2nd August, 1995 to 19th August, 1995 where security report at page 194 of Exhibit 55 reveals that, Shinde was present in the demonstration on 17-8-1995. He admits that, he was on the main gate and not in front of the office. Besides this, witness examined speaks about complaint filed by Mr. Madhu, Mr. Phadke and Mr. Menon and other report and speaks about knowing signatures of those concerned. As per Indian Evidence Act, either Management has to examine the signatories of these documents or have to report that, they cannot bring those witnesses and then said can be read as a secondary evidence. But no case of any type is made out regarding non availability of these signatories and reason behind it of whose complaints or signature of reports referred to these witnesses. Management appears happy in just referring these signatures and the complaints and reports and appears happy that it referred those to witnesses. But mere identifying signature on complaint and report without making out case about those and in absence of explanation as to why it is unable to

examine Madhu and other signatories in my considered view said evidence has not legal value.

25. So this is the evidence led by the 1st Party about charges levelled against these two charge sheeted employees. The evidence discussed above does not lead to the conclusion that, the charge of misconducts, charge of giving abuses to Khandekar and Director by Miss Khot, charge of giving slogans are proved against these two charge sheeted employees.

26. One has to consider that, Sthaniya Lokadhikar Samiti, arranged the demonstration. Being member of the Sthaniya Lokadhikar Samiti demonstration was attended by Miss Khot and Rane. It is not that these two only did all that. Union have arranged that dharna and demonstration. Evidence reveals that, both participated in the demonstration after office hours. It is pertinent to note that no action was taken against that dharna neither against the Union which arranged it nor against others who participated in it except these two. It is pertinent to note that if at all arranging dharna was illegal act, it ought to be alleged against Union also. It is pertinent to note that it is not shown by 1st Party that, said dharna was illegal and 1st Party has taken any legal action against Union about dharna which was jointly attended by Miss Khot and Rane. When that is the position in my considered view only both these workmen cannot be held responsible for that.

27. About leaving work place without permission, reporting late or taking leave without permission are the other charges levelled against these workers. But it is not show that, both have enjoyed their leave beyond permissible limit. Besides, it is brought on record that, late coming is noted and for that C.L. was deducted against that late coming which means, punishment was given to them there and then only. Even late coming was recorded. So, in my considered view, for that again these persons cannot be tried punished.

28. Now, let us see the citations referred by the 1st Party's Advocate in support of action taken by the 1st Party against these 2 employees involved in the reference. Citations referred below are most of the citations where respective Hon'ble Courts observed that, in case of proved misbehaviour and regardig allegation of abusing superiors and assaulting if the punishment of dismissal is given it is observed just and proper. (1) Decision given by Apex Court while deciding case of Mahindra and Mahindra Ltd. Vs. N. B. Narawade etc., published in 2005 1 CLR page 803. (2) Decision given by our Hon'ble High Court while deciding the case of Sahil Khan Vs. Hasmat & Co., published in 2006 (4) LLN page 890. (3) Decision given by Karnataka High Court while deciding the case of S. Madhavan Vs. Management of Sundaram Motors published in 2006 1 LLN page 622. (4) Decision given by Madhya Pradesh High Court while deciding the case of Gwalio Potteries & Ors Vs. Bhagwan Das and Ors. 2002 LLR page 255. (5) Decision given by our Hon'ble High Court while deciding the case of Hawaladar Singh Vs. Taigrania Metal Industries, Nasik, published in 2000 LAB I.C. page 908. (6) Decision given by Apex Court while deciding the case of L. K. Verma Vs. H.M.T. Ltd. & Ors., published in 2006 1 CLR page 851.

(7) Decision given by our Hon'ble High Court while deciding the case of Usha M. Mahadik Vs. Parle Products Ltd. & Anr., published in 2006 LLR page 775. (8) Decision given by our Hon'ble High Court while deciding the case of Premier Automobiles Pvt. Ltd. Vs. H. S. T. Hedge & Ors., published in 2007 LLR page 118. (9) Decision given by Gujarat High Court while deciding the case of Jitendra B. Mehta Vs. The Manager, Reliance Industries Ltd. & Ors., published in 2007 LLR page 168. (10) Decision given by Apex Court while deciding the case of Bharat Forge Co. Ltd. Vs. Uttam Manohar Nakare, published in 2005 LLR page 201. (11) Decision given by Apex Court while deciding the case of Hombe Gowda Education Trust & Anr. Vs. State of Karnataka & Ors., published in 2006 1 LCR page 280. (12) Decision given by Delhi High Court while deciding the case of Ramkishan Singhal Vs. Presiding Officer, Industrial Tribunal No. III, Delhi & Anr., published in 2007 LLR page 264. (13) Decision given by our Hon'ble High Court while deciding the case of AFL Private Ltd. Vs. S. L. Rajappa, published in 2007 LLR page 284. (14) Decision given by our Hon'ble High Court while deciding the case of Air India Ltd. Vs. N.P. Wadkar, published in 2001 LLR page 619. (15) Decision given by Calcutta High Court while deciding the case of G. Chatterjee & Another Vs. SBI & Ors., published in 1983 11 LLJ 200. (16) Decision given by our Hon'ble High Court while deciding the case of Pefco Foundry Vs. Baban Ananda Dhotre, published in 2000 11 LLJ (Supra) page 658. (17) Decision given by Delhi High Court while deciding the case of R. K. Sharma Vs. Municipal Corporation of Delhi, published in 1996 LAB I.C. page 1397. When misconduct is proved on charges like these which are of serious nature are proved then in that major punishment is appreciable. One has no dispute on that. But here as stated above charges levelled are not proved against these two. So question to punish deciding does not arise.

29. Besides, there cannot be the dispute to give major punishment like removing workmen in the proved misconduct like assaulting superiors or abusing superiors staff at work place or at any other place. The parties against whom such allegations are levelled and proved definitely must be punished by issuing punishment of dismissal. But, here question arises whether charges levelled against these workmen of abusing superiors, leaving work place are proved? Here charge of abusing superior at work place or at any other place is not levelled against these workmen. Here charge of leaving work place and charge of abusing superior is levelled against these workmen. But as stated above witnesses examined, by the Management are not supporting the case of abuses given by the concerned workmen participated in the demonstration or who were part of it. As stated above, Khandare has changed his statement and made contradictory statement about missing quotations. In fact Salian was responsible for missing of quotations. It is brought on record and it is proved fact that, alleged missing quotations were recovered from Salian and not from Miss Khot. Regarding abuses given to Director, Nehru Science Centre witness Khandare differs, whereas Chakraborty in his evidence is saying that, he did not know and he was not present. Chakraborty is not

supporting that Miss Khot abused or threatened Khandare in his Chamber in his presence though the story of the Management is that, Miss Khot abused Khandare and threatened Khandare in Chamber of Section Officer Chakraborty. Besides Sudhir Gaonkar who is examined to show that, both the workmen took part in the demonstration and were in it states that, Mr. Shinde though he was on tour was shown present in the demonstration on 17-8-1995. That admission of Gaonkar about Shinde's involvement creates doubt about his depositions and raise question as to why he should not be disbelieved regarding his version? Besides in affidavit filed by Gaonkar he has given number of dates and number of slogans given by the workmen is drafted date wise and person wise. Question arises whether it is possible for a person to give such details of slogans that too date wise, person wise and time wise of 1995 after 2-3 years? Besides that allegations, allegations leveled against these workmen are of leaving work place without permission or remaining absent unauthorisedly, disobeying the orders of the superiors, abusing them are the allegations which can be leveled by any body and by instrumenting any of the employee of its establishment. In such a case cogent and sufficient evidence is expected which should be believed. Here as stated above, Miss Khot who was the victim of Salian and Khandare and the star witnesses of the Nehru Science Centre like Chakraborty and Gaonkar are not deposing to that effect than what is expected from them in such a situation. It is to be noted that, these 2 are taking part in the Union activities. They even played role in the Union. They were victimized on number of occasions. Even record reveals that, only these two workmen are targeted though number of employees have attended the demonstrations, number of employees were coming late and remaining absent without permission. But the names of these two employees who are charge sheeted or targeted but it is not supported by any of the witnesses. Besides disobeying the orders of the superiors is not specifically proved against these two workmen. When this type of evidence is there and when these two charge sheeted employees are challenging the charges leveled against them, definitely burden shifts on the institution to prove that, those charge sheeted employees were really involved in it and they did it. Here evidence which is brought on record by Enquiry Officer as well as recorded before this Court does not lead to conclude that any of the charges leveled against them are proved.

30. No doubt there is some misbehaviour on behalf of these two which is be proved for example participating in dharna after office hours, disputing the written memo, challenging illegal decision of deducting casual leave about absenteeism, forgetting them only and what not. But definitely action taken against them reveals that though they were charge sheeted but said charges are not proved and action taken against them reveals that, it was taken just to target them. But in my considered view the action of removing them by giving compulsory retirement is not at all invited as far as these two workmen are concerned.

31. It is to be noted that, these 2 were compulsorily retired on 5th November, 1997 by issuing order with effect from that date. It is to be noted that, Miss Khot was of age

of 40 years in 2002 whereas Rane was of 50 when they filed their respective References. Now, Miss Khot may be of the age of 47 and Rane may of age of 57. Still both have long career in their service life. They have large future. They have responsibilities and for their act of like this for which charges are leveled against them were ordered to compulsorily retire which ends the service life of employees can be treated as capital punishment in labour jeopardous, by that they have lost their source of livelihood and besides that their families might have suffered lot. But here for the charges which are not proved beyond reasonable doubt they are ask to undergo said punishment. No doubt record created by 1st Party definitely throw some spots on them which may create some darkness on their service career. But in my considered view definitely for that punishment of this type which is under challenged is not just and proper. So in my considered view the punishment under challenge require to be set aside with directions to the management to reinstate them.

32. Now, question arises of back wages or benefit of back service? Proceedings reveals that, there may be some incident for which these 2 are involved in the reference. It may be that, they might have attended office late or might not have attended office without prior permission. It may be that, they might have participated in the demonstration but is not proved that, said demonstration was illegal and these charge sheeted employees have committed any breach of law by participating in the demonstration. So said punishment is just and proper. Gainful employment is not pleaded by 1st Party nor these two workmen making out specific case. Still one has note that, Nehru Science Centre is Government undertaking autonomous body working for the people at large. It is to be noted that, these two workmen did not work for 1st Party from 5th November, 1997. So considering all that and the case not made out by both on gainful employment, I conclude that, they must be benefited by ordering 50% of back wages with benefit of continuity of service. Hence, the order :

ORDER

- (a) Reference is partly allowed;
- (b) Impugned order of compulsory retirement which is effected from 5th November, 1997 against both these employees Miss S. D. Khot and Mr. S. K. Rane is set aside directing 1st Party to reinstate them on their respective post and pay them 50% back wages from the date of their actual effect of order of compulsory retirement till they are reinstated;
- (c) Management is also directed to give them benefit of continuity of service for the pensionary benefits.
- (d) In the circumstances of the case there is no order as to its costs.

Bombay,

Dated : 30th September, 2008

A. A. LAD, Presiding Officer

नई दिल्ली, 12 नवम्बर, 2008

का. आ. 3249.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ सं. 243/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2008 को प्राप्त हुआ था

[सं. एल-12014/02/2008-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th November, 2008

S.O. 3249.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 243/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the Management of State Bank of India, and their workmen, received by the Central Government on 12-11-2008.

[No. L-12014/02/2008-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

Present: Shri Ved Prakash Gaur, Presiding Officer

Dated the 29th day of September, 2008

INDUSTRIAL DISPUTE L.C.I.D. No.14/2005

Between:

Shri P. R. Prasad, S/o P. Satyanarayana,
R/o 3-3-914, Flat No. 103C,
Avanthi Apts., Kudbiguda,
Kachiguda,
Hyderabad.

.....Petitioner

And

1. The Chairman,
The Lakshmi Vilas Bank Ltd.,
Administrative Office,
Kathapara,
Karur—639006.
2. The Appellate Authority,
(Shri N. Giridharan),
The Lakshmi Vilas Bank Ltd.,
Administrative Office,
Kathapara,
Karur—639006.
3. The Disciplinary Authority,
(Sri G. Raghunathan),
The Lakshmi Vilas Bank Ltd.,
Administrative Office,
Kathapara,
Karur—639006.

4. The Manager,
The Lakshmi Vilas Bank Ltd.,
Koti Branch,
Hyderabad.

.....Respondents

APPEARANCES :

- For the Petitioner : M/s. V. Jogayya Sarma, C. N. Moorthy & J. Madhavi Latha, Advocates
- For the Respondent : M/s. K.V.R. Chowdary & U. S. Lakshmi, Advocates

AWARD

This case was taken in view of the judgement of the Hon'ble High Court of the Andhra Pradesh reported in 1997 (3) LLJ Supplement, page 1141 in W.P. No. 8395 of 1989 dated 3-8-1995 between Shri Chinnappa and M/s. Cotton Corporation of India and two others.

2. This petition has been filed by P. R. Prasad against the Respondent management to set aside the order of dismissal passed by Respondent management. It has further been stated that the Petitioner was dismissed from the service of the basis of departmental enquiry to which he said was only an eye wash because the said departmental enquiry was not conducted properly. The principles of natural justice were not followed. The charges leveled against the Petitioner were not proved.

3. Brief facts of this petition has been mentioned as follows : that the Petitioner joined as clerk in Respondent bank on 15-7-1980 at Bangalore. He was transferred to Koti branch of Hyderabad in the year 83. The Respondent bank is scheduled commercial bank and the staff are governed by Bi partite settlement arrived at between the employees union and the banks association. It has further been submitted that all clerk obey the instructions of the higher ups in the execution of the day to day work. The manager asks the clerks concerned to fill up the vouchers of the remittances/disbursements etc in turn the voucher relating to the remittance or disbursement will be filled up by the clerk concerned. All the staff members follow this procedure. He has further stated that Branch Manager at Hyderabad gave a complaint to the police station, Sultan Bazar, Hyderabad in FIR No. 172/2002 dated 15-7-2002 and simultaneously issued a chargesheet dated 14-9-2002. Departmental enquiry was completed but no action was taken. Then, 2nd chargesheet was issued on 12-2-2004 containing 29 charges which was replied by the workman on 4-3-2004. On receipt of this reply to the 2nd chargesheet only a show cause notice on the basis of the 1st chargesheet dated 14-9-2002 was issued on 22-3-2004. He has submitted that on careful examination of the chargesheet dated 14-9-2002, 12-2-2004 and police complaint dated 15-7-2002 which will reveal that there is no financial loss to bank. There are only procedural irregularities in filling the vouchers. In reply dated 4-3-2004 Petitioner had categorically stated that the 2nd chargesheet dated 12-2-2004 is grounded on the same set of facts as was complained to the police in FIR no. 172/2002. In the enquiry

proceedings the Enquiry Officer has submitted his findings :

- Charge No. 1 not proved.
- Charge No. 2 not established.
- Charge No. 3 not established.
- Charge No. 4 there is no loss to the bank.
- Charge No. 5 neither claim nor loss to the bank.
- Charge No. 6 transactions had been authorised.
- Charge No. 7 there is no claim of refund.

Charge No. 8 reads, "... however, here the genuineness of D.C.D. could not be proved otherwise. Though D.C.D.'s could have been genuine the generators for producing Fds, C.Ds through the questionable means. Hence, by acting so he had acted in detrimental to the interest of the bank.

Charge No. 9 : "However, here the genuineness of DCD could not be proved otherwise. Though the DCD's could have been genuine but the sources for generating those DCD's are through questionable means".

Charge No. 10 : no loss to the bank and

Charge No. 11: there is no financial loss to the bank.

Charge No. 12: Charges not established.

Charge No. 13 : There is no loss to the bank.

Based on these findings the Disciplinary Authority made him scape goat and has terminated his services. Then Petitioner filed an appeal which was dismissed on 14-9-2004. He prayed to declare the order of the Disciplinary Authority as illegal and thereby to set aside and reinstate him with full back wages.

4. Counter was filed on behalf of the management who has alleged that the Petitioner's claim application is neither true nor correct. It is submitted that Petitioner while working as clerk at Hyderabad main branch has reportedly misappropriated banks' funds and was involved in serious acts of misconducts as per bipartite settlement applicable to him. The Petitioner was initially suspended pending disciplinary action by order dated 20-6-2002. He was issued with a chargesheet dated 14-9-2002 for alleged serious acts of misconduct from 2-5-1983 to 29-4-2002. Chargesheet reads as follows :

"Charge Sheet :

It is reported that you have committed various acts of commission and omission while working in our Hyderabad branch from 2-5-1983 to 29-4-2002. Hence, the following charges are framed against you.

1. That you had misappropriated Rs. 2,25,000 from out of the cheque No. 011978 dated 1-6-2000 issued by the holder of the SB a/c 37469 favouring 'Yourself' and you, as purchaser, had effected Mail Transfer No. 7512000-2001 on 1-6-2000 payable at Chennai for the said amount favouring S. Balakrishnan & R. Padm Prasan.

Above stated act of yours would, if proved, amount to an act of prejudicial to the interests of the Bank and gross misconduct under 5(j) of the Bipartite settlement dated 10-4-2002.

2. That you had prepared following credit vouchers for crediting the amount of the below mentioned pay orders wherein you willfully filled in SB a/c No. as 37469 which is standing in the name of Mahesh despite knowing that the relative pay orders were not in the name of Mahesh and thus caused conversion of Rs. 38,329 which amounts to loss to the Bank.

Sl. No.	Date	Amount in Rs.	Pay Order No.
1	14-10-2000	1,785	001119
2	7-5-2001	22,451	002708
3	18-6-2001	12,493	003134, 002989, 003069
4	21-8-2001	1,600	003707
Total		38,329	

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and Gross misconduct under 5(j) of the Bipartite settlement dated 10-4-2002.

3. That you had prepared credit voucher for Rs. 7,369 on 26-9-2001 for crediting the amount of pay orders bearing No. 003987 & 003989 favouring Sri Mohan Rao, you purposely did not fill up the SB a/c number and caused it credited into SB a/c 37469 standing in the name of Mahesh whereas the relative Pay orders were not in the name of Mahesh.

Above stated act of yours would, if proved, amount to an act prejudicial to the interests of the Bank and Gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

4. That you had prepared credit voucher for Rs. 19,269 on 3-10-2001 for crediting maturity proceeds of deposit receipt No. 20010908 (CDR No. p312817) held in the name of Nilesh Beneficiary Trust wherein you purposely did not fill up the SB a/c number with ulterior motives and caused the amount to be credited into SB a/c 37469 of Mahesh and thus exposing the bank to a eventual claim of Rs. 19,269 which amounts to loss to the Bank.

Above stated act of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

5. That you had prepared credit voucher for Rs. 3,086/- on 22-10-2001 for crediting interest for 79 days on the deposit a/c held in the name of Chilakamma and credit voucher for Rs. 3,905 dated 23-10-2001 for payment of interest from FD 311342 of Ravinder Reddy wherein you purposely did not fill up the SB a/c 37469 of Mahesh. Thereby exposed the Bank to a eventual loss of Rs. 6,991

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

6. That you have prepared credit voucher in respect of the following accounts for transferring the amount of interest to the concerned depositor. You with a view to get it credited into the SB a/c 37469 prepared the vouchers accordingly. The amount was credited into SB a/c 37469 of Mahesh and thus caused conversion of Rs. 12,320 which amounts to loss to the Bank.

Sl. No.	Dated	Amount in Rs.	F D Name & No
1.	3-12-2001	10,247	K C Chordia 20010254
2.	3-12-2001	2,073	K C Chordia 20010255
Total		12,320	

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

7. That you on 11-11-1998 closed deposit receipt 88198/115/85 dated 20-12-1985 for Rs. 16,000 standing in the name of M/s. Yamuna Digital Electronics Pvt. Ltd. due on 16-12-1988 with maturity value of Rs. 21,520. The deposit receipt is discharged in the capacity of Proprietor and there is no instruction for renewal of deposit. But with out any authority, you prepared credit voucher for Rs. 21,520 for crediting DCD 455/98 in the name of Govind Reddy purported to be renewal for 10 years. The deposit receipt No. 158509 was prepared by you in the name of Govind Reddy. As it was only renewal of the deposit standing in the name of M/s. Yamuna Digital Electronics Pvt. Ltd., the officer had corrected the name in the deposit receipt accordingly and authenticated it under his signature. But you struck the name of M/s Yamuna Digital Electronics Pvt. Ltd., and you again inserted the name of Govind Reddy. Accordingly, you have opened the deposit account in the register. You closed the said deposit a/c on 9-1-1999 and prepared voucher for the maturity amount of Rs. 57,783 for issuing pay order favouring Govind Reddy. The pay order No. 002289 so issued was paid through clearing. Thus you have caused conversion of Rs. 21,520 and loss of Rs. 57,783 to the bank.

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

8. That you prepared Debit vouchers on 18-5-1999 for Rs. 71,364.70 and Rs. 23,479.05 both purported to be the clearing difference claimed by SBH and for Rs. 25,000.20 purported to be the clearing difference claimed by Canara Bank for debiting Sundries A/c in all amounting to Rs. 1,20,113.95. For the said amount, you prepared 5 credit vouchers for issuance of pay order 217 to 221/99 favouring the Banks concerned. That on 6-12-1999, you had

deliberately chosen to debit pay order account as cancellation of pay order 217 to 221/99, knowing fully well that the beneficiaries of the pay orders are banks and these pay orders were issued towards clearing difference and you prepared debit voucher for Rs. 1,20,113.95. That you had prepared credit vouchers for opening DCD in the following names and thus caused conversion of Rs. 1,20,113.95 which amounts to loss to the bank.

DCD No	Name	Amount Rs.
46424	Shailaja	25,000.20
46425	Sushila	23,749.05
46426	Santosh Kumar	24,500.00
46427	Purushothama	34,992.00
46428	Durga Prasad	11,872.00
Total		1,20,113.95

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

9. That without actually sorting out the clearing difference and without receiving clearing difference receivable and without paying clearing difference payable, you have prepared vouchers to square up the same internally, as given below, which is against the systems and procedure of the bank.

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the bipartite settlement dated 10-4-2002.

10. That you have debited Rs. 2,087.30 on 12-7-2000 ostensibly for pay orders 015906/2777 dated 29-3-90, 015908/2779 dated 29-3-90, 081674/1766 dated 21-3-94 and 081310/1404 dated 22-1-94 in the name of different payees, fully knowing well that the above instruments had become stale. That the above proceeds had been used by you for issuing pay order 000730 favouring Ashok Tiru Tronics and caused conversion of Rs. 2,087.30 which amounts to loss to the Bank.

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the Bipartite settlement dated 10-4-2002.

11. That you were instructed to take action on the letter No. AV 22022/2/2001-FG dated 25-10-2001, received from Director General of Civil Aviation, wherein the Bank was asked to remit the value of FD 016132/72/93-94 of Swathi Sanghi and Director General of Civil Aviation, Delhi along with interest therein. The above deposit matured for payment on 10-12-95 with maturity value Rs. 12,184/-. That you are aware that no interest is payable after the maturity date when payment is demanded. That you closed the a/c and debited FD for Rs. 13,322/- on 5-12-2001 and, in contravention of instructions of the depositor, you created

DCD a/c 20011427 for 72 months carrying interest from 10-12-95. That consequently, the maturity value was Rs. 27,820. That on 13-12-2001 closing the DCD a/c 20011427 you created DCD a/c 20010627 for days. That on 31-12-2001, you closed the DCD a/c 20010627 for Rs. 27,877 and prepared the credit vouchers for issuance of DD for Rs. 12,164/- favouring the Accounts Officer, Central pay and Accounts Office, Civil Aviation Department, Government of India and for crediting the balance of Rs. 15,693/- favouring Swathi without mentioning SB a/c No. It was caused to be credited to Sundries a/c. you have prepared voucher for reversing Rs. 15,693/- from Sundries on 9-1-2002 and for crediting SB a/c of Swathi without mentioning SB a/c No. and caused it to be siphoned off by crediting it into SB a/c 35048 of Vijay Kumar Kandhar and thus you have caused loss to the Bank. Similarly you have caused loss of Rs. 15693/- to the Bank in respect of DVD 016131 which was standing in the name of Uday Pilani and DGCA.

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the Bipartite settlement dated 10-4-2002.

12. That you have closed DCD 011446 LF 34178 of Ganesh Kumar on 24-8-99 and debited for Rs. 81,233 whereas the maturity amount payable was Rs. 76,721 and you had caused loss of Rs. 4,512 to the bank.

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the Bipartite settlement dated 10-4-2002.

13. That you had prepared voucher for pay order on 8-10-1999 and pay order 1106 for Rs. 1,314 was issued in favour of Pushpa. You had also prepared voucher for pay order on 23-9-1999 and pay order 976 for Rs. 8366 was issued in favour of Sayar Bai. That being so, you had prepared credit voucher on 12-10-1999 for Rs. 9680 with the offset being above 2 pay orders by deliberately filling in SB a/c No. 32012 so as to credit the same into SB a/c 32012 held in the name of Santosh/Vijay/Davendar Srinivas. That thus you have caused conversion of Rs. 9680 which amounts to loss to the bank.

Above stated acts of yours would, if proved, amount to acts prejudicial to the interests of the Bank and gross misconduct under 5(j) of the Bipartite settlement dated 10-4-2002.

You are advised to submit your written statement of defence, if any, within 15 days from date of receipt of this charge sheet.

5. The Petitioner has submitted his version and vaguely denied the charges without any explanation. Stating therein that he did and acted as per the directions of his superiors. The explanation was not found to be satisfactory. However, to give a fair and reasonable opportunity to the Petitioner management decided to conduct an enquiry into charges levelled against the Petitioner and Sri S. Manoharan, Asst. General Manager,

Divisional Office, Hyderabad has been appointed as Enquiry Officer who conducted the enquiry and submitted his report dated 5-1-2004.

6. The Disciplinary Authority on careful perusal of the proceedings of the enquiry and the finding of the Enquiry Officer found that the Petitioner herein along with his Advocate appeared before the Enquiry Officer. He participated in the enquiry to his full satisfaction cross examined the witnesses examined on behalf of the management. He asked to submit his defence if any, before Enquiry Officer on 15-12-2003. The Petitioner did not submit any defence submission.

7. The Enquiry Officer conducted fair and proper enquiry gave reasonable opportunity to—Petitioner following principles of natural justice. The findings of the Enquiry Officer are based on the material available on record and management accepted the findings of the Enquiry Officer in full and considering the gravity and seriousness of the misconduct proved against the Petitioner. Imposed the punishment of the dismissal under clause 69a of the bipartite settlement. Accordingly, the Petitioner was issued a show cause notice dated 22-3-2004 and he was granted personal hearing on 31-3-2004. No response was given by the Petitioner nor he appeared before the Disciplinary Authority on 31-3-2004. The Disciplinary Authority concluded that Petitioner committed acts prejudicial to the interests of the bank and dismissed the services of the Petitioner. The action of the management is legal, valid, bonafide and justified and it wants no interference from this Hon'ble Court. The contention of the Petitioner is incorrect and baseless that Manager of Hyderabad branch suddenly lodged a complaint with the police. There is no merit in the contention of the Petitioner and this Petition deserves to be dismissed.

8. The Petitioner has filed impugned dismissal order dated 2-4-2004, Charge sheet dated 14-9-2002, proceedings of the Disciplinary Authority dated 22-3-2004, representation dated 12-2-2003, appeal dated 15-5-2004, order of rejection of appeal dated 14-9-2004 and copy of FIR No. 172/2002. However, the Respondent has filed letter of suspension dated 20-6-2002 chargesheet dated 14-9-2002, explanation of the Petitioner dated 20-9-2002, order of appointing Enquiry Officer dated 24-10-2002, proceeding regarding change of Disciplinary Authority dated 25-8-2003, findings of Enquiry Officer dated 5-1-2004, Ex. MEx. 1 to MEx. 14. Show cause notice dated regarding proposed punishment on 22-3-2004 order of dismissal dated 2-4-2004, appeal from the Petitioner dated 15-5-2004, minutes of personal hearing dated 22-6-2004, letter from the Petitioner dated 30-6-2004, letter to the Petitioner dated 10-7-2004, letter from the Petitioner dated 19-7-2004, minutes of personal hearing dated 24-7-2004 and order of Appellate Authority dated 19-12-2004.

9. The Petitioner has not filed his own affidavit nor he has examined himself, nor produced any oral evidence.

10. I have heard Respondent's counsel because Petitioner or his counsel are not present on the date of arguments. I have gone through the file. Petitioner's main contention through his claim petition is that he was made a

scape goat. The charges levelled against him were not found to be proved by the Enquiry Officer, as has been mentioned in para 6 of his claim petition. However, the Petitioner has not taken courage to appear before this court in persons and state those allegations by taking oath before this court. He has not been able to substantiate the allegation made in para 6 of his claim petition. As against this, the management has filed the letter of suspension, charge sheet, explanation of the Petitioner and proceedings before the Enquiry Officer and the findings of the Enquiry Officer, holding the Petitioner guilty of charges. The Petitioner has prepared a pay order for Rs. 8366 in favour of one Sayar Bai. Apart from this he has prepared credit vouchers for the credit of SB a/c 32012 which is highly illogical and unexplainable. Several other charges has also been found to be proved. The Disciplinary Authority has issued a show cause notice to the Petitioner alongwith the copy of enquiry report asking the Petitioner to submit the explanation against the charges proved against him. It has further been informed to the Petitioner that if he wants to place certain facts in person before the Disciplinary Authority he can avail that chance also and a date 3-7-2004 was fixed for personal hearing of the Petitioner vide letter dated 22-6-2004. Against this letter the Petitioner has replied to the bank by his letter dated 30-6-2004, that he is not in a position to take journey from Hyderabad to Karur and he sought permission to make his submission through his counsel. The record further show that the Disciplinary Authority has postponed the date of personal hearing vide their letter dated 10-7-2004 to 24-7-2004 but it appears that the Petitioner workman has not availed 2nd opportunity also but he has written a letter dated 19-7-2004 for further adjournments and requested for his case to be presented through the counsel. However, this request was not allowed and Disciplinary Authority has passed the order of dismissal. Thus there is ample evidence that the Petitioner has committed serious pecuniary irregularities and misconducts, the charges leveled against the Petitioner were found proved. There is no irregularity or illegality in domestic enquiry and the report of enquiry officer was based on cogent reliable evidence; due to which Disciplinary Authority has taken the view that the Petitioner is not fit to be retained in the service of the bank and has dismissed his services, which had been confirmed by the Appellate Authority of the department. The Petitioner has not been able to point out any defect or prejudice before this court also. He was not present before this court on the date of arguments, he has not filed any affidavit/order or documentary evidence in support of his claim petition. Nor he examined himself. All this goes to show that the Petitioner has got no case. His claim petition is baseless, ambiguous and has not been proved as alleged by the Petitioner. From the above discussion, this Court has come to the conclusion that the Petitioner's claim has no force, it deserves to be dismissed and Petitioner deserves no relief from this court.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assitant, transcribed by her and corrected by me on this the day of September, 2008.

VED PRAKASH GAUR, Presiding Officer

Appendix of evidence

Witnesses examined
for the Petitioner

NIL

Witnesses examined for the
Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 12 नवम्बर, 2008

का. आ. 3250.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू इंडिया इन्शोरेंस को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई नं. 2 के पंचाट (संदर्भ सं. 42/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/11/2008 को प्राप्त हुआ था।

[सं. एल-17012/26/2004-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th November, 2008

S.O. 3250.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2005) of Central Government Industrial Tribunal-Cum-Labour Court, No.-2, Mumbai as shown in the Annexure, in the Industrial Dispute between the Management of New India Assurance Co. Ltd., and their workmen, received by the Central Government on 12-11-2008.

[No. L-17012/26/2004-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL No. 2, MUMBAI

Present : A. A. Lad, Presiding Officer

Reference No. CGIT-2/42 of 2005

Employers in Relation to the Management of
New India Assurance Company Ltd.

The Regional Manager
New India Assurance Co. Ltd.
New India Assurance Building
87, M.G. Road, Fort
Mumbai-400 001.

And

Their Workmen

Mr. Mahesh Shah
Matru Ashish Co-op. Housing Society
Flat No. 12, 3rd floor
V.P. Road, Near Khoja Jamat Khana
Andheri (W)
Mumbai 400 058.

Appearances :

For the Employer : Mr. C.V. Pavaskar,
Advocate

For the Workmen : No appearance.

Mumbai, dated 6th October, 2008.

AWARD

1. The Government of India, Ministry of Labour, by its Order No. L-17012/26/2004 [IR (B-I)] dated 03-01-2005 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the Management of New India Assurance Co. Ltd., Mumbai in dismissing the services of Shri Mahesh Shah w.e.f. 16-11-2000 is justified? If not, what relief the workman, Shri Mahesh Shah is entitled to?”

2. Claim statement is filed at Ex-8 which was replied by first party by filing written statement at Ex-9. Issues were framed at Ex-22 and when reference was kept for recording evidence second party started remaining absent. Even fresh notice was sent to second party by Ex-24 and Ex-25 reveals it was served on him still he remained absent. In this premises I conclude that second party is not interested in proceeding with the reference. Hence the order :

ORDER

Reference is disposed of for want of prosecution.

Dated : 06-10-2008

A. A. LAD, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2008

का. आ. 3251. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.बी.एम.बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ सं. 33/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-11-2008 को प्राप्त हुआ था।

[सं. एल-42011/45/90-आई आर (डी यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3251.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/91) of the Central Government Industrial Tribunal-Cum-Labour Court, No.-1, Chandigarh, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of B.B.M.B. and their workman, which was received by the Central Government on 14-11-2008.

[No. L-42011/45/90-IR(DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH.**

Case No. I. D. 33/91

General Secretary, Nangal Bhakra Mazdoor Sangh, Nangal Township, District Ropar (Punjab)-140001.

... Applicant

Versus

Chief Engineer, Bhakra Dam, Nangal Township, District Ropar (Punjab)-140001.

... Respondent

APPEARANCES

For the workman : Sh. R.K. Singh

For the management : Sh. Bhagat Singh

AWARD

Passed on : 5-11-08

Government of India vide Notification No. L-42011/45/90 IR (DU) dated 12-3-91 referred the following industrial dispute for adjudication to this Tribunal :

“Whether the action of the Chief Engineer, Bhakra Dam, Nangal Township, Distt. Ropar is justified in not giving the scale of Rs. 810-1440 w.e.f. 1-1-86 to all the 26 helpers (details are given in the Annexure F) ? If not, to what relief the concerned workmen are entitled ?”

The case of all the 26 workmen in not shall is that all the workmen are regularly serving in B.B.M.B till date. They all are I.T.I. diploma holders. The first revision of pay scale was made by the B.B.M.B. w.e.f. 1-2-68 at par with Punjab Government pay scales, the second revision of pay scale was made w.e.f. 1-1-78 at par with Punjab Government pay scales and third revision of pay scale was made w.e.f. 1-1-86 to this category of workmen including others at par with Punjab Government pay scales. Initially, the designation given to the workman was skilled Mazdoor, thereafter, Beldar. On resisting by the Union and workmen, they were designated as helpers and each one was classified in the respective trade. It was because that the Beldar's work is entirely different than that of helper to a particular trade. The workmen were paid Rs. 750—1300 along with the Beldar/Helper employed in Civil Motors for digging pits and on maintenance of buildings and roads whereas, the workmen are working on the work of skilled nature in big workshops. As per the Punjab Government pay scale, the pay scale of workmen should have been Rs. 810-1440 w.e.f. 1-1-86 but they were given the scale of Rs. 750—1300. Moreover, the management is not paying any special pay or selection grade to the petitioners on the basis of their technical qualification. On the basis of Punjab Government pay scales on 1-2-68, the pay scale of workman should have been Rs. 80-3-120 whereas, the B.B.M.B. has given the pay scale of

Rs. 70-2-80-3-95. From 1-1-78, they should have been in the pay scale of Rs. 325—495 as par with Punjab Government scales but they were given the pay scale of Rs. 300-10-450/14-430 by B.B.M.B. Likewise, from 1-1-86, they should have been given the pay scale of Rs. 810—1440 as per the Punjab Government scales but the B.B.M.B. provided them the scale of Rs. 750-20-1500. On the basis of above averment, all the workmen have claimed that the pay scale of Rs. 810—1440 be provided to all the workmen w.e.f. 1-1-86 along with interest and heavy cost.

The management of respondent appeared and opposed the claim by stating that the B.B.M.B. has not adopted the pay scale of Punjab Government as such to the workmen of B.B.M.B. The pay scales of Punjab Government were adopted by B.B.M.B. with certain modifications since beginning.

It has also been stated by the management of B.B.M.B. that in the matter under dispute, the General Secretary, Nangal Bhakra Mazdoor Sangh, Nangal Township preferred demand notice against the non-implementation of third Pb. Pay Commission report notified by the Pb. Deptt of Personnel & Admn. Reforms letter No. 4/19/SSo/NGIE/16827 dated 26-10-88, to the categories of Skilled & Semi Skilled staff according to which—1440 w.e.f. 1-1-86. The General Secy. of the Union was replied vide S.E., BDC letter No. 468/PS/40 dt. 30-1-90 (copy enclosed) and Addl. Secy. BBMB No. 5447/PD/1346/89/R-5 dated 12-2-90 that the Industrial workforce i.e. Skilled Labour/T. Mate/Helpers/Beldars were allowed the pay scale of Rs. 30-35/35-40 which were revised to Rs. 70-95 vide Secy. B.B.M.B Chandigarh letter No. 20395-400/PS/1699/D-B dated 19-11-80. The same stands revised to Rs. 750—1350 w.e.f. 1-1-86 which were correctly allowed & paid to the Helpers of workshop Divn. because they were initially appointed as Skilled Labour on daily wages & later on brought on workchorage cadre as Beldar in pay scale of Rs. 30—35.

It has further been stated by the management of B.B.M.B. that w.e.f. 1-1-86, they pay scales of the workman were revised under the "Certified Standing Orders" of B.B.M.B. vide letter No. 19311/86/PD/1307/R 5 dated 2-8-1989. The Punjab Government's letter No. 4/19/88-4GI/16827 dated 26-10-88 was never adopted by the B.B.M.B.

I have given opportunity for adducing evidence to both of the parties. On behalf of the workmen, Surjit Singh was examined as WW1 and Sh. Kuldeep Kumar, was examined as WW2. On behalf of the management Sh. R.K. Singh filed his affidavit and was cross-examined by learned counsel for the workman. All the relevant documents which have been mentioned by both of the parties in their pleadings have been filed which are on the revision of pay scales.

I have heard learned counsel for the parties and perused all the materials on record.

The main question for determination before this Tribunal is whether the B.B.M.B. has adopted the circular letter of the Government of Punjab No. 4/19/88-4GI/16827 dated 26-10-88 in revising the pay scales of its workmen from 1-1-86? This Tribunal has also to answer whether all

these workmen were entitled for pay scale of Rs. 810-1440 from 1-1-86 instead of Rs. 750—1300. Fixation of pay scale, revision of pay scale and granting of pay scale in a particular pay structure depends on the decision making of the management of any organization. The Tribunal has to see whether the organization has fixed the pay scale of the workmen in different structure than they were entitled on the basis of their working and as per the policy decision of the management of respondent.

In *Union of India vs. P.V. Hariharan*, (1997) 3 SCC-568, Hon'ble the Supreme Court observed that the Courts or Tribunals ought not to interfere with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. Change of pay scale of a category has a cascading effect, when several other categories similarly constituted, would put forward their claims on the basis of such change, which will lead to serious problems? Unless it could be clearly brought out that they were carrying on identically work and there is clear case of hostile discrimination, there would be no justification for interfere with the fixation of pay scale.

In *Union of India vs. Makhan Chandra Roy*, (1997) 11 SCC 182, it was held by the Supreme Court that the equation of post or pay must be left to the Executive Government and must be determined by expert bodies like Pay Commission. The Court should not try to think with such equivalence unless it is shown that it was made extraneous.

In *State of Maharashtra vs. Chandrakant Anant Kulkarni*, (1981) 4 SCC 130=1981 (2) SLJ 280 (SC), it was observed by the Supreme Court that the matter of equation of posts is an administrative function and such matter should be left to the concerned Government. Any revision of pay would be exercised which is totally unauthorized and would amount to taking a policy decision which is within the domain of the authorities themselves who are the authors of the pay scales or revision thereafter.

In *State of U.P. vs. J.P. Chaurasia*, (1989) 1 SCC 121, the Supreme Court observed that the matter of pay scale does not just depend upon either the nature of work or volume of work done as primarily what is needed to be noticed is violation of dues and responsibilities to the respective posts. More often than not, functions of two posts may appear to be same or similar, but there may be different degrees in the performance, like the responsibilities attached to a particular office. In such a case, it would not be open to the Court to consider whether the equation of posts made by the Government or the pay scales granted to them is right or wrong, as such matters are exclusively within the provisions of the Government. Perhaps the only question the Court can enquire into is whether appropriate policy has been adopted by the Government which does not result in hostile discrimination which is a very narrow and limited area of enquiry.

All the above mentioned case laws have been referred and relied upon by the Supreme Court in *Union of India and others vs. Indu Lal and others* 2007 (3) AILJ-X-130.

On careful perusal of all the materials on record including the circular letters regarding revision of pay and fixation of all the workmen and the entire evidence adduced by the parties, I am of the view that the workmen have failed to prove the hostile discrimination of the management of B.B.M.B. in revising and fixing the pay scales. A casual statement is made by the workmen that their scales have been revised as par with unskilled workers, whereas, all the workers who are subject matter in this reference are skilled workers. They have no where mentioned the duties and responsibilities of the post held by them. It is admitted to all the workmen that prior to the revision of pay in question, the pay scales of the workmen were revised twice in the same manner as the revision of pay in question was affected. Meaning thereby the pay scale given to the workmen in previous two pay revisions was different than that of the Punjab Government pay scales. The management and workmen have only challenged the third pay revision w.e.f. 1-1-86, they have not challenged the previous revisions dated 1-2-68 and 1-1-78. Whereas, all the three revisions were affected on the same standard.

As stated by Hon'ble the Apex Court in above mentioned case laws that the fixation of pay is the matter of policy decision taken by the department concerned of the Government and the Court have very limited power to interfere in the granting of pay scale and in revision thereafter. It is the policy decision of the management of B.B.M.B. that the pay scales of Punjab Government shall not be given as such to the workmen working in B.B.M.B. Their scales are to be revised on the basis of decision making of B.B.M.B. by separate circular letters of the B.B.M.B. Thus, unless and until some discrimination in giving the pay scale or revision thereafter, is not before this Tribunal, this Tribunal cannot interfere in the matter of granting pay scales and their revision. Accordingly, this reference is positively answered that as per the policy of the management of B.B.M.B., all the workmen have rightly given the pay scale of 750-1350 from vide letter No. 1931/86/PD/1-3-07/R-5 dated 2-8-1989 under "Certified Standing Orders" of B.B.M.B. w.e.f. 1-1-86. The workmen are not entitled to any relief. Let Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2008

क्र.आ. 3252.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फार्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 3/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-11-2008 को प्राप्त हुआ था।

[सं. एल-14012/97/91-आई.एम्. (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3252. In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/92) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Military Farm and their workmen, which was received by the Central Government on 14-11-2008.

[No. L-14012/97/91-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-1, CHANDIGARH**

CASE NO. I.D. 3/92

Shri Walter C/o. General Secretary, Military Farm, Civilian Workers and Employees Union, Ferozpur Cantt (Punjab)- 152001.

....Applicant

versus

The Officer-in-Charge, Military Farm, Ferozpur Cantt (Pb.)- 152001

....Respondent

APPEARANCES

For the workman : Sri T. C. Shanna

For the management : Sri. K. K. Thakur

AWARD

Passed on 5-11-2008

Government of India vide notification No. L-14012/97/91-IR (DU) dated 23-1-92, has referred the following Industrial Dispute for judicial adjudication to this Tribunal:—

“Whether the action of the Officer Incharge, Military Farm Ferozpur Cantt., in terminating the services of Sh. Walter daily rated workman w.e.f. 1-1-89 is justified? If not, what relief the concerned workman is entitled to?”

The case of the workman in nut shell is that the workman worked with the management of respondent from 1-9-85 to 31-12-88, at the Military Farm on daily rates basis, against the regular and permanent post, but payment was made monthly. The services of the workman were illegally terminated in violation of rules and provisions of law as no notice or retrenchment compensation was given to him. He has prayed for reinstatement into the services with full back wages and other consequential benefits.

The management of respondent opposed the claim of the workman by filing written statement. He raised the

preliminary objection that the management of respondent is not an industry and accordingly, this Tribunal has no jurisdiction to dispose off this reference. On merits, it is stated that the workman worked with the department for 29 days in September 1985, 211 days in the year 1986 and only 45 days in the month of February and May 1987. The applicant has not worked for 240 days in the preceeding year from the date of his termination. In para no. 7 detailed statement of working days is given by the management of respondent as follows:—

1985

Sept. — 29 days only

1986

Apr. 86 — 29 days

May. 86 — 31 days

July. 86 — 30 days

Aug. 86 — 30 days

Sep. 86 — 30 days

Nov. 86 — 30 days

Dec. 86 — 31 days

Total — 211 days

1987

Feb. 87 — 27 days

May 87 — 18 days

Total — 45 days

1988 — Nil

1989 — Nil

Both of the parties were afforded the opportunity for adducing evidence. Shri Walter filed his affidavit in the form of evidence and he was subjected to cross-examination by learned counsel by the management of respondent on 11-12-06. Shri Gurbhacan Singh filed his affidavit for the respondent of management and he was cross-examined by learned counsel for the workman. All the relevant documents relating to the work of the workman have been filed by the management of respondent. R 1 is the failure of conciliation report written by Assistant Labour Commissioner (C) Chandigarh to the Secretary Government of India, Ministry of Labour, New Delhi. Annexure 2 is the details of working days of Shri Walter and M3 to M10 are the copies of attendance register. I have heard learned counsels for the parties and pursued the entire materials on record. The main issues for adjudication in answering this reference are :—

(1) Whether the management of respondent is an industry?

(2) Whether the workman has completed 240 days of work with the management of respondent? If yes, to what relief he is entitled?

I am answering these issues one by one:—

The term 'industry' has been defined in Section 2 (j) of the Industrial Disputes Act, 1947, to mean any business, trade undertaking, manufacturing or calling upon employers and includes any calling, services, employment, handicraft or industrial occupation or avocation of workmen. In

Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others AIR, 1978 Supreme Court 548., 7 Judges Bench of Hon'ble the Apex Court has Defined the word 'Industry'. As per the above mentioned law laid down by the Apex Court, industry has defined in Sub-section 2 (j) as a wide term and import as:—

(a) Where there is (i) systematic activity, (ii) organized by co-operation between employer and employee the direct and substantial element is chimerical), and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss), prima facie, there is an industry in the enterprise.

(b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.

(c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

(d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Thus, the test (specially triple test) referred by Hon'ble the Apex Court in Bangalore Water Supply case (supra) are necessary to qualify any institution to be an industry.

Regarding the sovereign functions, Hon'ble the Apex Court in Bangalore Water Supply Case (supra) has held that sovereign functions strictly understood cannot alone qualify the exemptions, nor the welfare activities or economic advantage undertaken by Government or statutory bodies. Even in departments discharging sovereign functions, if there are units which qualified to be the industry and they are substantially several then, they can be considered to come within Section 2 (J) in the definitions of Industry.

Thus, the decision whether the particular organization is industry or not has to be taken by the work done and business carried on by it, which absolutely depends on the facts and circumstances of each case I have gone through the evidence of the management. The functioning of the respondent which is clear from the other references regarding the military farm is to supply milk and milk products and Hay of the animals to the armed forces of union. Big farms are maintained by military farm, and milk and milk products are produced. Thus, the function of maintaining the farms and producing the milk and milk products and the services rendered for the maintenance of above mentioned work, it cannot be said that the military farm qualified for the sovereign functions only. Without disputing the fact that most of the functions of the organization, whose unit is military farm, may be the sovereign functions but the unit military farm on the basis of work done and services rendered is an industry as held

by Hon'ble the Apex Court in Bangalore Water Supply case (supra) that even in departments discharging sovereign functions, if there are units which are industries and they are substantially several then they can be considered to come within Section 2 (j) in the definition of Industry. Thus, on the basis of above mentioned observation, I am of the view that respondent is an industry. I have perused a circular letter of the respondent containing terms and conditions of service of casual industrial and non industrial employees also support the above contention that certain groups which are working with the Military farm are considered as industrial groups and it cannot be said that respondent is not an industry. It is undoubtedly an industry and the dispute in between the workmen and the management of respondent is the industrial dispute.

So far as the working days of the workman are concerned, the workman has failed to file any statement of working days before this Tribunal. He relied certain documents which were filed by the management and the genuineness of these documents were not challenged by him. Thereafter, the workman has challenged the filing of two affidavits by the witness of the management. The reason for filing the two affidavits is very clear that the affidavit cannot be amended and the second affidavit, in supplement to previous affidavit, accordingly, was filed by the management. I have considered both of the affidavits and as per details of working days in none of the affidavit the workman has completed 240 days of work in the year preceding to the date of his termination. The calculation which is given by the management and supported by authentic documents shows that the workman has not completed 240 days in the preceding year from the date of his termination. He has admitted that he was working as a casual labour as and when the work was required and such a workman has no right to post. The disengagement of such a workman cannot be termed as retrenchment. Accordingly, on failure of the workman to prove that he worked for 240 days with the management in the preceding year from the date of his termination, I am of the view that the workman is not entitled to any relief.

The reference is accordingly answered. Let the Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 14 दिसम्बर, 2008

का.आ. 3253.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार मिलिट्री फार्म के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण/श्रम आयोग नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 29/93) को प्रकाशित करती है, जो केंद्रीय सरकार को 14.11.2008 को प्राप्त हुआ था।

[नं. एल. 14012/90/91-आईआर (ड्यु.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3253.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/93) of the Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 14-11-2008.

[No. L-14012/90/91-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL - CUM - LABOUR COURT - I,
CHANDIGARH**

Case No. I. D. 29/93

Shri Raj Kumar C/o Sh. Ram Singh Democratic Trade Union,
1/6 Central Town, Jalandhar (Punjab)-144001.

...Applicant

Versus

Officer-in-Charge, Military Farm, Jalandhar Cantt.
(Punjab)-144005.

...Respondent

APPEARANCES

For the workman : Sh. Raj Kaushik

For the management: Sri. K. K. Thakur

AWARD

(Passed on: 3-11-08)

Government of India vide notification No. L-14012/90/91-IR (DU) dated 29-1-1993, has referred the following industrial dispute to this Tribunal for adjudication.

"Whether the action of the management of Military Farm, Jalandhar Cantt. in terminating the services of Sh. Raj Kumar MHC-IV CL IV is legal and justified? If not, to what relief the workman concerned is entitled to?"

The reference was referred on account of the failure of conciliation proceedings before Reconciliation Officer at Chandigarh. From statement of claim, it is clear that stand of the workman in short is that he joined the services of the respondent management on 24-6-74 at MHC-IV and was appointed at Military Farm, Jalandhar Cantt. In 1981, he was promoted to MHC-III after passing the test. In the month of January, 1982, he applied for the sick leave w.e.f. 11-2-1982 to 24-2-1982. On 25-2-82, he again submitted an application for extension of leave and no order on his application was received from the competent authority which leads the presumption that the leave were extended. He has never absented from 25-2-82 and the oral enquiry on his unauthorized absence from 25-2-82 was against the

law and rules of the department. On the basis of this illegal oral inquiry, a termination order dated 20-1-84 was passed by the management of respondent on false and frivolous allegations. No documents were supplied to him during enquiry. There was no positive against him. On the basis of the above facts, the workman has requested for his reinstatement into the services with full back wages along with cost of litigation.

Management replied the statement of claim informing this Tribunal that the workman applied for seven days leave from 25-1-82 to 31-1-82 followed by extension of 10 days from 1-2-82 to 10-2-82 and 14 days leave from 11-2-82 to 24-2-82 which were sanctioned. Thereafter, he was absenting himself from duty unauthorizedly from 25-2-82 onward. On 24-2-83, a letter was issued to Sh. Raj Kumar informing him that he was absenting from duty unauthorizedly from 25-2-82 without proper leave application, hence, he was being marked absent and was also advised to rejoin duty forthwith. The said letter was received by the management with the remarks of postal authorities that, "Addressee left India on 7th March 1983." The father of the workman was very well posted in the Military Farm. When he was asked about the whereabouts of the workman he did not replied satisfactorily. Thereafter, civil verification was made through Civil Authorities/Deputy Commissioner, Jalandhar. The Deputy Commissioner, Jalandhar vide his letter No. 8733 dated 27-3-84 informed the management that the workman has left India for Muskat as Labour and after stay in Muskat almost of one and a half years, he came back and doing bumper fitting work from door to door. The matter was accordingly reported to the higher authorities and an inquiry was conducted in which he was found guilty for absenting from the duty unauthorizedly and visiting abroad without permission. On the basis of the finding of inquiry officer, after affording the opportunity of being heard and ensuring the personal hearing, the disciplinary authority awarded the penalty of removal from service which shall not be disqualification from future employment under the Government. The workman preferred an appeal which was also rejected after affording the opportunity of being heard.

Parties were afforded the opportunity for adducing evidence both oral and documentary. Complete inquiry file is on record which was marked as Annexure-1. Sh. Raj Kumar filed an affidavit in support of his evidence and he was cross-examined by learned legal representative of the management on 27-9-02 and 21-9-05. Sh. Gurdev Singh filed the affidavit on behalf of the management and he was cross-examined by learned counsel for the workman.

I have heard learned counsels for the parties and perused entire materials on record. The main question for determination before this Tribunal are :

1. Whether the workman unauthorizedly absented from the duty and visited Muskat (a foreign country) without prior permission?
2. Whether the enquiry (so called oral enquiry) was conducted in a manner prescribed under the rules and principle of natural justice were complied with?
3. Whether the workman is entitled for any relief?

So far as unauthorized absent from the duty and visiting a foreign nation is concerned, it is admitted by the workman in his letter dated 23-6-84 which is on record. In his cross-examination, he has also admitted that he went to Muskat and remain out of India till 1982 and has not attended his duty in India during that time. The letter containing this admission is enclosed in the inquiry file as Paper No. 54. In Para b and c of this letter, he has categorically mentioned that on 9-2-82, he had to go Muskat to see one of his relatives after submitting proper leave application but due to some unforeseen circumstances, he could not resume duty in time. When he came back, he came to know that his services have been terminated. He was not retrenched from the service and his services were terminated in an ex parte decision and no chance was given to him to defend his case. Report of the Deputy Commissioner, Jalandhar is also on record along with the enquiry file which is Paper No. 40. No doubt, the workman stressed it that he moved an application on 25-2-83 for extension of leave but there is no iota of evidence that he had moved such application. It is admitted case that from 8th of February, meaning thereby during the sanction period, he visited abroad and remained there for one and a half year without permission and without getting the leave sanctioned. The rules relating to leave are very clear. Unless and until the leave are not sanctioned, no one can presume to avail the leave. In this case, I am unable to find out on the basis of the materials on record whether any application on 25-2-83 was moved and it gave me an opportunity to hold that Sh. Raj Kumar neither has moved any application for extension of leave on 25-2-83 nor has taken the permission to go abroad. Thus, he was absent from duty from 25-2-83 unauthorizedly and visited a foreign nation (Muskat) without any permission from the management.

The enquiry officer was duly appointed after serving the copy of charge sheet to Sh. Raj Kumar and after affording the opportunity of being heard the enquiry officer gave its finding. Not only the statement of Sh. Raj Kumar was recorded but statement of his father Sh. Jia Lal was also recorded. Proper opportunity of being heard was given and there seems to be no violation of any rules of the principle of natural justice by the enquiry officer while conducting the enquiry. Accordingly, I am of the view that enquiry officer conducting enquiry properly, fairly and in a reasonable manner and full opportunity of hearing was afforded to Sh. Raj Kumar.

The disciplinary authority, after considering all the facts and the enquiry report, dismissed Sh. Raj Kumar from the service with the order that the dismissal will not affect the future prospects of Sh. Raj Kumar to get a service in the Government Department. It is true that enquiry officer has mentioned in his enquiry report that Sh. Raj Kumar was ill throughout and a lenient view may be taken on this very ground.

In his statement of claim, Sh. Raj Kumar has not mentioned a single word that he visited foreign nation without permission. When this fact comes to his notice through written statement that the main contention of management is that he has visited the foreign nation without

permission, he did not disclose the reasons compelling him to visit the foreign nation without permission in his application or affidavit. In his application to the department, which is numbered as 54 in the enquiry file, he has informed that he had to go to Muskat to see one of his relatives. In his cross-examination, he has mentioned that he visited Muskat for his treatment. The enquiry was conducted by the civil authorities and it came to the notice of the management vide report dated 27-3-84, Paper No. 40 that Sh. Raj Kumar lived in Muskat for one and a half year for the labour work. Thus, the act of Sh. Raj Kumar to remain absent from the duty unauthorizedly and visiting a foreign nation without permission for doing some labour work in that country in lust of earning more money shows that he has visited the foreign nation at the cost of his Government job with the management. This is the gross misconduct which should be dealt with very severely, if the discipline in any institution is supposed to be maintained.

Powers of the Tribunal for interfering with the punishment inflicted by disciplinary authority are very limited. It can only be invoked if the punishment awarded is shockingly disproportionate to the committed misconduct. No mitigating circumstances have been proved by the workman to show his visit to Muskat and stay over there without permission. Thus, I am of the view that the punishment awarded to the workman is not shockingly disproportionate with the committed misconduct.

Thus, the disciplinary authority has rightly awarded the penalty for his dismissal from the services with the direction that this dismissal will not debar the workman for applying and having the Government job in the future. After perusing the entire evidence and materials on record and considering the facts and circumstances of the case, I find no reason to interfere in the findings of disciplinary authority awarding the punishment of dismissal from the service. The reference is accordingly answered. Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2008

क्र.आ. 3254.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार मिलिट्री फार्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-11-2008 को प्राप्त हुआ था।

[सं. एल-14012/89/91-डी-2 (बो)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3254. In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1/92) of Central Government Industrial Tribunal-cum-Labour Court No.1, Chandigarh as shown in the Annexure, in the

Industrial Dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 14-11-2008

[No. L-14012/89/91-D-2(B)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. I.D. 1/92

Shri Shingra Singh S/o Shri Soma C/o Shri Madan Lal
H.No. 13, Military Farm, Ferozpur Cantt.-152001 (Punjab).

...Applicant

Versus

The Officer Incharge, Military Farm Ferozpur Cantt. 152001
(Punjab).

...Respondent

APPEARANCES

For the workman : Sri T. C. Sharma

For the management: Sri K. K. Thakur

AWARD

Passed on: 4-11-08

Government of India vide notification No. L-14012/89/91-D-2(B), dated 6-1-92 referred the following industrial dispute for judicial adjudication to this tribunal:

"Whether the action of the Officer-in-Charge, Military Farm, Ferozpur Cantt. in terminating the services of Shri Shingra Singh, S/o Sh. Soma w.c.f. 28-4-91 is justified? If not, to what relief the concerned workman is entitled and from what date?"

It is the case of the workman that he worked at the Military Farm, Ferozpur under the respondent from 1-5-87 to 27-4-91 on daily rate wages. The payment was made monthly and he was appointed against the regular and permanent post. His services were terminated illegally on 28-4-91. He has prayed for an order of reinstatement into the services with all other consequential benefits.

Management of Military Farm filed the written statement and opposed the statement of claim. Preliminary objection was raised that management of respondent is not an 'industry' under the Industrial Disputes Act. On merits it was alleged that the workman has not completed 240 days of work in the preceding 12 months. His services were not terminated but he abandoned the job of his own on 28-4-91.

Both of the parties were afforded the opportunity for adducing evidence. Apart from the oral evidence few documents were also filed by the parties. R-1 is the copy of the attendance sheet for the month of April 1991, R-2 is the statement given by Shri Tarsem S/o Shri Kohar Singh dated

6-5-91, R-3 is the statement given by Shri Kantar Singh S/o Shri Kunda Singh, dated 6-5-91, R-4 is the copy of the statement of Shri Mohinder Singh S/o Shri Sadhu Singh, dated 6-5-91, R-5 is the copy of the statement of Inderjeet, dated 6-5-91, R-6 is the copy of the statement of Shri Joginder Singh, dated 6-5-91, R-7 is the copy of the comments on the appeal of Shri Shingara, dated 7-5-2001 given to Incharge Cultivation given by Shri Mohan S/o Shri Sahonta Incharge Cult and Section. Ex. M-3/1 to M-3/15 are the copies of attendance register regarding the work of workman. I have heard learned counsel for the parties and perused the entire materials on record. The main question for determination before this Tribunal are:—

- (1) Whether the respondent is an industry?
- (2) Whether the workman Shri Shingara Singh voluntarily abandoned the work of the management or his services were terminated by the management?
- (3) To what relief, if any, the workman is entitled?

I am disposing of these issues one by one.

The term 'industry' has been defined in Section 2 (j) of the Industrial Disputes Act, 1947, to mean any business, trade undertaking, manufacturing or calling upon employers and includes any calling, services, employment, handicraft or industrial occupation or avocation of workmen. In *Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others* AIR, 1978 Supreme Court 548, 7 Judges Bench of Hon'ble the Apex Court has defined the word 'Industry'. As per the above mentioned law laid down by the Apex Court, 'industry' has defined in Sub-section 2 (j) as a wide term and import as:—

- (a) Where there is (i) systematic activity, (ii) organized by co-operation between employer and employee (the direct and substantial element is chimerical), and (iii) for the production and/or distribution of goods and services calculated to satisfy human wants and wishes (not spiritual or religious but inclusive of material things or services geared to celestial bliss), prima facie, there is an industry in the enterprise.
- (b) Absence of profit motive or gainful objective is irrelevant, be the venture in the public, joint, private or other sector.
- (c) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.
- (d) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

Thus, the test (specially triple test) referred by Hon'ble the Apex Court in *Bangalore Water Supply case* (supra) are necessary to qualify any institution to be an industry.

Regarding the sovereign functions, Hon'ble the Apex Court in *Bangalore Water Supply Case* (supra) has held that sovereign functions strictly understood cannot alone qualify the exemption, nor the welfare activities or economic advantage undertaken by Government or

statutory bodies. Even in departments discharging sovereign functions, if there are units which qualified to be the industry and they are substantially sevegral then, they can be considered to come within Section 2 (j) in the definitions of Industry.

Thus, the decision whether the particular organization is industry or not has to be taken by the work done and business carried on by it, which absolutely depends on the facts and circumstances of each case. I have gone through the evidence of the management. The functioning of the respondent which is clear from the other references regarding the military farm is to supply milk and milk products and Hay of the animals to the armed forces of union. Big farms are maintained by military farm, and milk and milk products are produced. Thus, the function of maintaining the farms and producing the milk and milk products and the services rendered for the maintenance of above mentioned work, it cannot be said that the military farm qualified for the sovereign functions only. Without disputing the fact that most of the functions of the organization, whose unit is military farm, may be the sovereign functions but the unit military farm on the basis of work done and services rendered is an industry as held by Hon'ble the Apex Court in *Bangalore Water Supply Case* (supra) that even in departments discharging sovereign functions, if there are units which are industries and they are substantially sevegral then they can be considered to come within Section 2 (j) in the definition of Industry. Thus, on the basis of above mentioned observation, I am of the view that respondent is an industry. I have perused a circular letter of the respondent containing terms and conditions of service of casual industrial and non industrial employees also support the above contention the certain groups which are working with the Military farm are considered as industrial groups and it cannot be said that respondent is not an industry. It is undoubtedly an industry and the dispute in between the workmen and the management of respondent is the industrial dispute.

R-2 to R-6 shows that some enquiry was held by the management regarding the allegation of the workman for using abusive language. If the workman had abandoned the work under normal circumstances there was no occasion of recording the statement which is record as R-II to R-V. It shows that disengagement of this workman was not under the normal circumstances which give rise to record the statement and to give the comments as mentioned in annexure R-7. Considering the nature of document, I am of the view that disengagement of the workman from the work was not under the normal circumstances and it cannot be said that workman has voluntarily abandoned the services. The management has nothing to say what was the occasion to hold such an enquiry, if the workman has voluntarily abandoned the services under normal circumstances? Accordingly, I am of the view that the services of the workman were terminated.

Now, I have to decide as to what relief the workman is entitled?

A casual labour has no right to any post and his services on session of work can be terminated. But if the workman has completed 240 days of work in the preceding

year from the date of the termination, the law (Industrial Disputes Act) imposed an embargo on this power of the management and protect the right of the workman for his termination against the provisions of the Industrial Disputes Act. The Industrial Disputes Act, does not completely prohibited the termination of the workman who has completed 240 days of work in the preceding year from the date of termination but permits the management to terminate the services through the process and procedure laid down in the Industrial Disputes Act. The Industrial Disputes Act permits the management to terminate the services of the workman, if the workman has completed 240 days in the preceding year from the date of his termination, after giving him one month notice and prescribed retrenchment compensation.

On perusal of the entire materials on record the workman has failed to prove that he has worked 240 days in the preceding year from the date of his termination. Documents available on record shows that the services of the workman were terminated on 28-4-91 and in the preceding year, he has not completed 240 days to protect his interest under the Industrial Disputes Act.

The workman was supposed to prove that he has worked 240 days in the preceding year from the date of his termination, but he has utterly failed to prove it. In his cross-examination Shri Shingara Singh has admitted that he has worked for 166 days in 1987, 23 days in 1988, has not worked at all in 1989, had worked 100 days in 1990 and 25 days in 1991. So, as per the documents available on the record and on account of the admission of the workman, I am of the view that the workman has not worked for 240 days in the preceding year from the date of his termination. There are two affidavits, on record filed by the same witness of the management. It has been objected too by the workman but on perusal of both of the affidavits it is clear that workman has not worked 240 days as desired by the legislation. Thus, it will not affect adversely that the management has filed two affidavits of the same witness mentioning different working days.

Accordingly, the reference is positively answered and workman is not entitled to any relief. Central Government be informed for publication of the award. Thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2008

का.आ 3255.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार, जवाहर नवोदय विद्यालय के प्रभितंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण अथ न्यायालय नं. 1, चण्डीगढ़ के संघाट (संदर्भ संख्या 177/97) को प्रकाशित करती है, जो केन्द्रीय सरकार जो 14-11-2008 को प्राप्त हुआ था।

[सं. एल. 42012/167/96-आई आर (डोयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3255.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 177/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Jawahar Navodaya Vidyalaya and their workmen, received by the Central Government on 14-11-2008.

[No. L-42012/167/96-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case I.D. No. 177/97

Shri Birbal Singh, S/o Shri Mohan Singh, Vill. Sukhladhi, P.O. Bangi-Rugh via: Raman, Distt. Bhatinda-151301.

.... Applicant

Versus

The Principal, Jawahar Navodaya Vidyalaya, Longowal Distt. Sangrur.

.... Respondent

APPEARANCES

For the workman : Shri O.P. Batra, Advocate.

For the management: Shri D.R. Sharma, Advocate.

AWARD

Passed on : 24-10-2008

Central Government vide notification No. L-42012/167/96 (IR)DU, dated 30-9-97 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Principal, Jawahar Novodaya Vidyalaya, Longowal Sangrur (Pb) in terminating the service of Shri Birbal Singh S/o Sh. Mohan Singh, L.D.C. w.e.f. 9-2-95 is just and legal? If not to what relief is the workman is entitled from which date?"

2. The present reference was made by the Central Government on the failure of conciliation proceedings for adjudication of the matter referred in the schedule referred above and the workman prayed for declaring the action of the management as illegal and invalid.

3. The management turned up and opposes this reference.

4. As per office memorandum dated 5-9-08, this case was fixed in pro Lok Adalat meeting on 24-10-08 for its disposal by adopting the mediation and conciliation mechanism. Both the rep. of the management Mrs. Harjit Kaur, Principal and the workman have made a joint statement that the parties have agreed that as and when the work will be available on casual/daily wages, the workman will be

given first preference. On this assurance of the management the workman withdraw his reference. He has also agreed to forgo his compensation or any other claim if any in this reference. Accordingly, the workman withdraws the reference in Lok Adalat. Accordingly the reference is returned to the Central Government as settled in Lok Adalat. Central Government be informed. File be consigned to record.

Chandigarh
24-10-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2008

का.आ. 3256.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिसों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 109/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-11-2008 को प्राप्त हुआ था।

[सं. एल-40012/44/2003-आई आर(डीयू)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3256.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 109/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sr. Supdt. of Post Office and their workmen, which was received by the Central Government on 14-11-2008.

[No. L-40012/44/2003-IR(DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH

Case No. I.D. 109/2003

Smt. Simla Devi
W/o Shri Jagdish Kumar,
Mehmad Pur Vis Sandhaur,
Distt. Sangrur

...Applicant

Versus

The Superintendent of
Post Offices, Sangrur.

... Respondent

APPEARANCES

For the workman : None
For the management : Shri K.K. Thakur

AWARD

Passed on: 4-11-2008

Central Government vide notification No. L-40012/44/2003-IR (DU), dated 29-5-2003, has referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of Senior Supdt. of Post Offices, Sangrur (Pb.) in terminating the services of Smt. Simla Devi, EDBPM, Mehmad Pur, BO w.e.f. 19-3-99 without complying with the provisions of I.D. Act was just, fair and legal? If not, what relief she is entitled to and from which date?"

2. None is present on behalf of the workman. Learned counsel for the management is present. From last many days fixed for the hearing of this case the workman is not ensuring her presence. The reference was referred by the Central Government in the year 2003. Several Opportunities have been given to the workman but she is not availing the opportunity of being heard. It is already 1.15 pm. At this stage, I have no option otherwise then to dismiss the claim of workman in reference for non-prosecution and return the reference to the Central Government as such. Accordingly, the reference is returned as such. Let the Central Government be informed. File be consigned.

Chandigarh
4-11-2008

G. K. SHARMA, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2008

का.आ. 3257.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीनियर सुपरिन्टेन्डेन्ट ऑफ पोस्ट ऑफिसों के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 13/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-11-2008 को प्राप्त हुआ था।

[सं. एल-40011/22/2004-आई आर(डीयू)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2008

S.O. 3257.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sr. Supdt. of Post Office and their workman, which was received by the Central Government on 14-11-2008.

[No. L-40011/22/2004-IR(DU)]
AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH**

Case I.D. No. 13/2005

Shri Tilak Raj Sorting Postman C/o Post Master, Head
Post Office, Batala, Batala. ...Applicant

Versus

The Senior Superintendent of Post Offices, Gurdaspur
Division, Gurdaspur (Punjab), Gurdaspur.
... Respondent

APPEARANCES

For the workman : None

For the management : Shri Sudhanshu Srivastva.

AWARD

Passed on: 4-11-2008

C. Government vide notification No. L-40011/22/2004-IR (I), dated 24-1-2005, has referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Postal Department represented through the Senior Supdt. of Post Office, Gurdaspur by deducting penal rent in respect of Sh. Tilak Raj, sorting Postman w.e.f. 6-3-2000 to 31-5-2002 was just, fair and legal? If not, what relief the workman is entitled to and from which date?”

2. None is present on behalf of the workman. Learned representative for the management is present. From last many days fixed for the hearing of this case the workman is not ensuring his presence. The reference was referred by the Central Government in the year 2005. Several opportunities have been given to the workman but he is not availing the opportunity of being heard. It is already 1.15 pm. At this stage, I have no option otherwise then to dismiss the claim of workman in reference for non-prosecution and return the reference to the Central Government as such. Accordingly, the reference is returned as such. Let the Central Government be informed. File be consigned.

Chandigarh
4-11-2008

G. K. SHARMA, Presiding Officer